S. HRG. 100-416

CHANDLER L. VAN ORMAN NOMINATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF CHANDLER L. VAN ORMAN TO BE ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY

DECEMBER 15, 1987

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Committee on Energy and Natural Resources

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CHANDLER L. VAN ORMAN

TUESDAY, DECEMBER 15, 1987

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SD–366, Dirksen Senate Office Building, Hon. Timothy E. Wirth presiding.

OPENING STATEMENT OF HON. TIMOTHY E. WIRTH, U.S. SENATOR FROM COLORADO

Senator WIRTH. The Committee will come to order. The purpose of this hearing is to consider the nomination of Chandler van Orman for the position of Administrator of the Economic Regulatory Administration.

The Economic Regulatory Administration was created by the Department of Energy Organization Act of 1977. The Administrator is responsible for, among other things:

Enforcement of pricing and allocation regulations in effect prior to the decontrol of crude oil and petroleum products on January 28, 1981;

The conversion of oil- and gas-fired utility and industrial facilities to coal and other alternative fuels;

Natural gas import/export controls;

And natural gas curtailment priorities and emergency allocations.

For some time this Committee has been concerned about the failure of the ERA to initiate all appropriate enforcement actions in oil overcharge cases. The last vestiges of the oil price controls originally imposed by President Nixon in 1971 were removed by President Reagan in January 1981.

In the spring of 1981, then ERA Administrator Ray Hanzlik told the Committee that all actions would be initiated by September 30, 1982. Four years later, Marshall Staunton told us all action would be initiated by the end of 1986. Now we are almost in 1988 and proposed remedial orders are still to be brought in several pending cases.

I hope that today the Committee receives some encouraging news about this seemingly unending program from Mr. van Orman.

Before going to the nominee, I would like to recognize our distinguished colleague. Rod, would you like to jump right in as an opening statement as long as you are here? Thank you very much.

STATEMENT OF HON. ROD CHANDLER, U.S. REPRESENTATIVE FROM WASHINGTON

Mr. CHANDLER. Thank you. This is a great pleasure for me, my first opportunity to ever address the Senate and introduce a nominee for a position, and it is a thrill because it is one Chandler introducing another, and in fact we are related.

I will not go into any great detail about Chandler's tremendous background, experience, and capability. You can judge that for yourself when you hear him testify. Suffice it to say he is a highly capable and experienced attorney in a position where we need just that.

I think when you hear him suggest the solutions to the problems you have outlined, you will be very favorably impressed.

So it is my great pleasure to introduce to the Committee today Chandler van Orman and recommend his confirmation.

Senator WIRTH. Thank you very much, Rod, and we greatly appreciate your being here and also the extraordinary quality of the delegation from the State of Washington. It is greatly appreciated.

Senator Baucus is also here. Perhaps, Mr. van Orman, we might wait a minute and recognize the distinguished colleague from the State of Montana.

Max, do you want to make a statement or join us here?

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA

Senator BAUCUS. I will make a statement.

Thank you, Mr. Chairman. I join in highly recommending Chandler to the position for which he has been nominated for two reasons.

One is because of his personal experience. He started his career as an attorney, a staff attorney with the Judiciary Committee here, and also worked with another regulatory agency, the FTC, for several years. In addition to that, he later joined the law firm of former Senator Wheeler, Senator from Montana.

He became chief counsel to the Agency for International Development in 1982, and in 1983 he was an advisor to the International Economic Summit. He also was the executive director of the Executive, Legislative, and Judicial Salary Commission.

In July he began working for the position which I think most recommends him for the position for which he has been nominated, and that is deputy administrator of the Energy Department's Economic Regulatory Administration.

On a personal note, I feel very close to Chandler because I claim him as a Montanan, and that is because he married one of the granddaughters of former United States Senator Burton K. Wheeler. Some in this room will remember Burton K. Wheeler. He first served in the Senate in 1923 and served until 1947.

He was instrumental in fighting FDR's court-packing plan. I think no other Senator fought that court-packing plan more than did Burton K., because he as a western and as a Montanan was fiercely independent and thought it was just wrong that FDR should try to pack the court

Burton K. was known as the Yankee from the West, and Chandler has those same personal qualities. Burton K. Wheeler also, as some will recall, ran for vice president with Robert LaFollette, a campaign that perhaps did not go as far as some other presidential or vice presidential campaigns, but certainly one that indicates his independent, progressive spirit, one that we are all very proud of.

And I very, very highly recommend Chandler to the Committee and urge his very speedy confirmation.

Senator WIRTH. Thank you very much, Senator Baucus. We appreciate your being here and coming over this morning. Thanks ever so much.

Congressman John Dingell, the Chairman of the House Commerce Committee, has a statement which he would like to have included in full in the record, as does Senator McClure.

[The prepared statements of Mr. Dingell and Senator McClure follow:]

Statement of

The Honorable John D. Dingell

Chairman, Committee on Energy and Commerce

Before

Senate Committee on Energy and Natural Resources

Re: Nomination of Mr. Chandler van Orman

December 15, 1987

Mr. Chairman, I appreciate this opportunity to testify today regarding the Administration's plans to remove the present Administrator of the Economic Regulatory Administration of the Department of Energy and replace him with the newly appointed Deputy Administrator. I urge your Committee to defer this proposal pending an investigation by the General Accounting Office and possible hearing by the Oversight and Investigations Subcommittee of this Committee.

As you know, Mr. Chairman, the Economic Regulatory Administration has long been plagued with controversy. The controversy has not been unique to the Reagan Administration. During the Ford Administration there was controversy over the regulations and their enforcement. During the early days of the Carter Administration, the controversy continued. However, toward the end of the Carter term, deregulation occurred generally and enforcement of the oil overcharge cases finally began in ernest.

Early in the Reagan Administration while enforcement continued, efforts were made to scuttle the program, largely through extensive personnel cuts. Administration officials scoffed at the idea that possibly as much as $10 billion in oil overcharges would ultimately be collected. They wanted to halt the program by September 30, 1983.

Leading that effort was the former ERA Administrator, Mr. Hanzlik, who left the ERA in September 1985. He was unable to succeed in his efforts to terminate the program in 1983, largely through the efforts of the legislative and appropriation committees of the House and Senate. Indeed, I believe when Mr. Hanzlik departed, he also became more aware of the importance and benefits of the oil overcharge program which has already recovered over $6.2 billion with the States receiving over $3.3 billion as indirect restitution. I understand that the Department expects to recover over $2 billion more before the program ends. Clearly, $10 billion was not a bad guess in 1980.

Since October 1985, Mr. Marshall Staunton served until August 1986 as Acting Administrator when he was confirmed. While he undoubtedly will want to leave that post sometime before the end of the Reagan Administration's term, I understand he has no present plans to leave. While I am not entirely pleased with Mr. Staunton's actions at the ERA, I believe he has tried to carry out the mandates of Congress, including those specified in the "Petroleum Overcharge Distribution and Restitution Act of 1986" which, Mr. Chairman, you helped to craft. However, it appears that some at the Department are anxious for Mr. Staunton to leave

in a rather hurried fashion. In fact, the Department's Under Secretary has taken several actions to prevent Mr. Staunton from handling several oil overcharge cases. In a couple of instances, the purported reason is that Mr. Staunton had an alleged conflict of interest. But, as my attached letter to the Under Secretary states, that was investigated last May by the Inspector General. The allegations were not really substantiated. The IG made no referral to the Justice Department, nor did he make a recommendation. Also, the Under Secretary has apparently taken no action.

I am troubled by the Under Secretary's actions to take cases from Mr. Staunton's oversight and to parcel out these cases to others in the ERA and to provide for reports to the Under Secretary. All of them are important and highly sensitive, particularly in this highly charged presidential election season.

I have asked the General Accounting Office to investigate the allegation of conflict of interest and the Under Secretary's actions.

To replace Mr. Staunton, the Administration has nominated Mr. van Orman who, according to his resume, has only been with the Department since last August, has no energy experience, and has no experience in the activities of the ERA, including the oil overcharge cases involving billions of dollars by oil industry firms and officials who are often contributors to both political parties. Indeed, the resume shows, under the heading "Political Activities," that since 1980, he has had extensive experience in presidential politics. It states:

POLITICAL ACTIVITIES

President's Staff, Advance	1976, 1981-1987
Reagan/Bush Committee, Advance	1980, 1984
Director, Special Support Services	
Republican National Convention	1984
Presidential Inaugural Committee, Staff	1980, 1984
Vice President's Staff, Advance	1974, 1985-1987
National Field Representative	
Committee for Reelection of the President	1972

Apparently, some of these "Advance" man activities have even occurred while he was a Federal employee at the Agency for International Development. I have asked the GAO to investigate the matter and, as I have already noted, the Subcommittee is contemplating hearings upon completion of the GAO investigation.

Mr. Chairman, I question Mr. van Orman's qualifications for the ERA Administrator post. I do not believe it reasonable or appropriate for such an obviously political person to head this agency and engage in negotiations with energy industry officials. Maybe the GAO will find that Mr. Staunton should be replaced. But surely the Administration can find a better qualified and less political person to replace him.

I urge that you defer this nomination until the GAO investigation I requested is completed in February or March 1988. I believe the public interest will be best served by such a deferral.

Thank you, Mr. Chairman.

Attachment

ONE HUNDREDTH CONGRESS

JOHN D. DINGELL, MICHIGAN, CHAIRMAN

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U.S. House of Representatives
Subcommittee on Oversight and Investigations
of the
Committee on Energy and Commerce
Washington, DC 20515

December 9, 1987

The Honorable Joseph F. Salgado
Under Secretary
Department of Energy
1000 Independence Avenue, S. W.
Washington, D. C. 20585

Dear Mr. Salgado:

Thank you for your November 20, 1987 reply to my letter of November 4 to the Secretary of Energy concerning the Administration's plans to replace the present Administrator of the Economic Regulatory Administration (ERA), Mr. Marshall A. Staunton, with the ERA Deputy Administrator, Mr. Chandler van Orman and several other ERA matters.

ERA Administrator Position

Your letter states that in the "spring of this year," Mr. Staunton "indicated that he planned to leave the Department this fall." You then said:

> He has subsequently confirmed his intentions to seek other professional opportunities. In order to assure an orderly transition, the Department promptly sought out a suitable replacement. Mr. van Orman was brought on as Deputy Administrator in July to facilitate a smooth transition during this critical period of ERA litigation.

I do not think it unusual for any Administration official to be considering leaving the Administration as it nears the end of its term. While I commend the Department for its efforts in seeking a "smooth transition," I am not fully satisfied, as I will discuss later in this letter, that Mr. van Orman is a "suitable replacement." Also, I observe that Mr. Staunton has not left the ERA. When my staff talked to him, he said he had no present plans to leave.

Your letter fails to mention that on May 8, 1987 you provided to the Department of Energy's Inspector General a memorandum of "allegations of possible conflicts of interest" by Mr. Staunton. Please provide a copy of that memorandum to the Subcommittee and explain the reasons for initiating the inquiry. What caused you to ask Mr. Staunton on May 7 about his inquiries

with any firm or official thereof relative to future job opportunities.

Your letter also fails to mention that on May 8 and 11, 1987, you sent the enclosed memoranda to Mr. Staunton concerning pending ERA cases. Please explain why you sent these memoranda to Mr. Staunton.

In addition, your letter fails to mention that on June 11, 1987, the Inspector General transmitted to you an "Abstract Report of Investigation" of Mr. Staunton's alleged conflicts of interest. One allegation was not substantiated. As to the other three allegations, certain facts were substantiated, but it is not clear, at the moment, that your allegation of a violation of conflict of interest statutes were substantiated.

The IG apparently did not make any referral to the Justice Department or to the Ethics Officer of the Department. Instead, the covering IG memorandum states that the report was "provided for your use in determining the appropriate administrative action warranted." The IG's memorandum makes no recommendation after repeating a portion of Executive Order No. 11222, but requests your "written response within 30 days concerning any action taken or anticipated."

Please explain what, if any, administrative action you have taken or plan and please provide a copy of your reply to the IG. If you have not taken any action or responded to the IG, please explain why. Please advise who in the Department and elsewhere were informed (and when) by you of the allegations and the IG investigation. Has Mr. Staunton received and reviewed the report? Who reviewed or received a copy of the IG report?

Please explain why on May 8 you recused Mr. Staunton from any involvement in the Texaco case and on May 11, 1987 from the Diamond Shamrock cases. I note that an ERA table provided the Subcommittee, and dated August 24, 1987 does not list either case as "currently in negotiation." Please indicate the status of these cases. Please also identify the ERA attorneys handling these cases. What was the role of Mr. Staunton in all of these cases? What is the role of Mr. Lorenz? Has the ERA reverted back to the Hanzlik days where cases were all negotiated by Mr. Lorenz with little involvement by the staff attorneys and auditors? Please explain why you asked Mr. Lorenz to "report directly" to you regarding a review of the Diamond Shamrock case, but made no similar directive to Mr. Lorenz regarding the Texaco and Tesaro cases. Please provide a copy of the results of Mr. Lorenz's review of the Diamond Shamrock case and a copy of your "memo to Mr. Lorenz" that was attached to your May 8 memorandum.

In regard to the Tesaro case, I understand that the Proposed Remedial Order has not been issued, although it reportedly has been ready for issuance for several months. Please explain the reasons for the delay in issuance of this document and provide a

chronology of all ERA actions in this case since January 1, 1987, together with a copy of all letters, memoranda, notes and other documents in the ERA and DOE files relating to this case.

As to Mr. van Orman's resume provided with your letter, he shows the following work experience:

Wheeler and Wheeler-Partner	1967-1982 1984-1987
Agency for International Development General Counsel	1982-1983
1983 Summit of Industrialized Nations: Director, Private Sector Involvement: Counsel to Administrator	1983
Commission on Executive, Legislative and Judicial Salaries: Executive Director	1986-1987

The 1982-1983 activities appear to be those of a Federal employee. The activities while a member of the Salary Commission seem to overlap the period while he was also a partner at Wheeler and Wheeler. He shows no background in energy matters. However, of greater concern to me (given the sensitive nature of the ERA Administrator and Deputy Administrator positions "during this critical period of ERA litigation") is the fact that during this entire period, including the period when he was a Federal official, Mr. van Orman states that he engaged in extensive "Political Activities" as follows:

President's Staff, Advance	1981-1987
Reagan/Bush Committee, Advance	1980-1984
Director, Special Support Services Republican National Convention	1984
Presidential Inaugural Committee, Staff	1980, 1984
Vice President's Staff, Advance	1985-1987

While I am very troubled about the allegations of possible conflicts of interest regarding Mr. Staunton, I observe that apparently you have not taken any action since last June concerning these matters and, as noted, you have not mentioned these matters in your letter as influencing the decision to remove Mr. Staunton. I presume you do not view the investigation as showing any problem. Moreover, I note that the Administration plans to keep Mr. Staunton as Administrator until there is a confirmation. Nevertheless, DOE personnel made known to our staff the existence of the allegations and the investigation after I wrote on November 4 to the Secretary about the removal of

Mr. Staunton. While I appreciate their candor, the release seems strange to me in light of your apparent inaction and failure to cite the allegations as cause for Mr. Staunton's removal.

As to Mr. van Orman, I am even more concerned in light of his extensive political activities involving the presidency and lack of energy experience, that he has been appointed Deputy Administrator and now nominated to replace Mr. Staunton, particularly at a time when presidential politics are at their highest. I have grave reservations about filling such highly sensitive posts with an "Advance man" of any political party.

I am sending a copy of this letter and related matters to the General Accounting Office (GAO) for investigation. I request your Department's full cooperation with the GAO.

I should point out that in the case of another agency, being examined by the GAO for the Subcommittee, an Administration official submitted resumes to firms and associations with which he was involved as a Federal official, and the ethics lawyers of that agency with whom he consulted advised him that such submittals did not require recusal. They contend that only when negotiations for employment start is a recusal required.

Anchor-Canal Case

According to a September 28, 1987 memorandum, you directed Mr. Staunton, pursuant to your "conversation" with him, to "reassign the Anchor Gasoline and Canal Refining" case to Mr. van Orman and indicated that Mr. van Orman, not Mr. Staunton, was to keep you and your staff, as well as Mr. Staunton, "appraised of the status of the litigation and negotiations." Who is the person on your staff who Mr. van Orman reports to about this or any other case? Why was this directive issued? There are no allegations of conflict of interest involving Mr. Staunton and this firm. I presume that you are sufficiently aware of the history of this case and our hearings that you would not have Mr. Lorenz participate in this case. I would expect that Mr. Lorenz would also not want further involvement. Am I correct?

I am particularly troubled about this situation because I wrote on July 20 to the EPA about this and other cases. In an October 14, reply, the ERA noted an August 11 conference with Anchor's President who "requested that the settlement negotiations be resumed." The ERA letter added: "The firm has not made any counter-offer of settlement."

On November 16, copies of all relevant documents were provided by ERA as I requested in July, including a copy of Anchor's letters of September 25 and October 1. The October letter was a "counter-offer" which, I should note, is slightly less in actual cash than Anchor's January 20, 1987 offer which Mr. Staunton quite properly rejected. In his October 14 letter to the Subcommittee, Mr. Staunton said:

> ERA's most recent assessment of the firm's ability to pay the DOE's claims was expressed in ERA's offer of June 18, 1987. Therein, ERA offered to settle for $21.5 million, plus interest on the unpaid balance.

The ERA offer which was later rescinded included a cash payment of $15 million. The remainder was an annual expenditure by the firm "to improve the Canal refinery" which I have indicated, in prior cases, is a highly questionable element of a settlement. I might add that Anchor's offer of October 9 includes a payment of 20 percent of the net profits of the consolidated corporation over five years. I consider that element of Anchor's offer equally questionable and highly speculative.

In his November 20 memorandum, Mr. van Orman said:

> On August 11, 1987, I attended my first meeting with representatives of Anchor at which time they were told that, upon my review of all pertinent issues, we would contact them regarding the reinstitution of settlement discussions. In early September, I informed Anchor's counsel that we were ready to proceed. On September 28, 1987, the cases were formally assigned to me. On October 9, 1987, a new settlement offer was received from Anchor. That offer is currently being evaluated and no counteroffer has been communicated back to Anchor.

Given Mr. van Orman's lack of expertise and experience in these matters, please identify all other ERA personnel who are fully participating in these negotiations. Please keep the Subcommittee informed about these negotiations. Let me also make it clear that I will value insights of Mr. Staunton and others relative to the adequacy of any counter offer made by the ERA under Mr. van Orman's guidance, particularly after considering ERA's analysis of these cases.

Mr. van Orman's memorandum indicates that he is "involved in attempting to negotiate settlements in several of the largest remaining cases." Please identify those cases, their litigation and negotiation status, the role of Mr. Staunton in those cases, and the identity of other ERA employees involved in those negotiations.

ERA Reorganization

According to a May 29 memorandum to the Secretary, Mr. Staunton proposed to once again reorganize enforcement at the ERA. It seems that reorganization is an occupational hazard at ERA.

The proposal was to replace the Office of the Solicitor and the Office of the Special Counsel with an Office of Enforcement

Litigation and an Office of Financial Analysis. The memorandum states:

> With the completion of the audit and pre-litigation audit support activities in December, 1986, the remaining litigation and settlement activities will be conducted out of ERA's headquarters office. The new proposed organization takes this into account and moves these activities to the Office of Enforcement Litigation.
>
> The responsibility for financial analysis, including the financial analysis of firms in litigation or settlement negotiations with ERA, will be given to the new Office of Financial Analysis. This Office will also be responsible for various monitoring and reporting activities currently required by Congress.
>
> Finally, the new organization will utilize an "Enforcement Planning Committee" composed of senior staff members, chaired by the Administrator and coordinated through this office. The Committee will coordinate overall settlement and litigation strategies for the EPAA Enforcement Program and provide policy and tactical enforcement advice to the Administrator.

Please provide the documents showing the approvals and indicate the present status of the reorganization. The Union contends that it has been implemented. Please also explain why the ERA had not previously informed the Subcommittee about this reorganization effort. I understand that Mr. Staunton is troubled by this split approval and I request his views.

According to the May 29 document, there was to be an Office of Financial Analysis with 17 positions. Under the approved version, what happens to those positions? How and where will the evaluations be made regarding the issues of "ability to pay" which ERA knows are significant and of great concern to this Subcommittee. Has the Enforcement Planning Committee been approved? Does the approval mean closing of the field offices? If yes, please explain why. What is the impact of that closure?

A review of the new Enforcement Office shows plans for only four auditors. How many auditors does ERA now have? What is the justification for retaining only four auditors? How can you be sure that the best qualified will be retained? Does ERA plan a reduction-in-force?

In its comments on this matter, on November 8 the National Treasury Employees Union said:

> No immediate impact is felt by the employees, however, the advent of Gramm, Rudman and Hollings is such that Reductions in Force are in the offing and the

long term impact could well prove negative, given the existing organizational structure.

Further, it seems the organization has taken on a "General Counsel" identity focusing only on the legal functions of the organization and all but eradicating the audit functions. The concern here is, should cuts become necessary under Gramm, Rudman the emphasis on litigation may well lack the balance required (legal vs audit) to continue the program, thereby prematurely endangering the program.

Finally, the streamlining of the organization portends a considerably top heavy grade structure, presenting management with an environment requiring adjustment of grades. This could ultimately damage moral and the professional structure of the organization.

Mr. van Orman states that the Union's comments "will be given serious consideration," but the "nature of their comments... would not appear to preclude the implementation of the ERA reorganization. I request the ERA's reply to the Union comments and that no action be taken under the reorganization until the Subcommittee has received a reply to this letter and has had at least 30 days to consider the reply.

I request your reply to the above matters within 30 days of receipt of this letter. I am providing a copy of this letter to Mr. Staunton and request his comments on the issues directly affecting him and on the ERA reorganization consistent with the requirements of section 3005(f)(4) of the Petroleum Overcharge Distribution and Restitution Act of 1986.

In addition to the GAO, it is likely that our staff will need to talk to you and others at the ERA and DOE and to review files and obtain copies of documents. The DOE's cooperation is expected.

With best wishes.

Sincerely,

John D. Dingell
Chairman
Subcommittee on
Oversight and Investigations

Enclosures

cc: The Honorable Norman F. Lent, Ranking Minority Member
Committee on Energy and Commerce

The Honorable Philip R. Sharp, Chairman
Subcommittee on Energy and Power

The Honorable Carlos J. Moorhead, Ranking Minority Member
Subcommittee on Energy and Power

The Honorable J. Bennett Johnston, Chairman
Senate Committee on Energy and Natural Resources

The Honorable James A. McClure, Ranking Minority Member
Senate Committee on Energy and Natural Resources

The Honorable John S. Herrington, Secretary
Department of Energy

The Honorable Marshall A. Staunton, Administrator
Economic Regulatory Administration, Department of Energy

The Honorable Chandler van Orman, Deputy Administrator
Economic Regulatory Administration, Department of Energy

The Honorable John C. Layton, Inspector General
Department of Energy

The Honorable Charles A. Bowsher, Comptroller General
General Accounting Office

Department of Energy
Washington, DC 20585

May 11, 1987

MEMORANDUM FOR: ADMINISTRATOR, ERA

SUBJECT: Texaco and Diamond Shamrock

In follow-up to my May 8 memorandum as it relates to the Texaco case, I have directed that Robert Groner should not participate as a member of the Texaco negotiating team. Until further notice, please see that Mr. Groner is not involved, directly or indirectly, in the Texaco case.

In addition, all actions related to Diamond Shamrock, including proposed remedial orders, are to be on hold until further notice to allow review of the status of the case. I have asked Mr. Lorenz to review the Diamond Shamrock case in addition to his responsibilities related to Texaco and Tesaro, and have asked that he report directly to me upon completion of his review.

Joseph F. Salgado
Under Secretary

Department of Energy
Washington, DC 20585

May 8, 1987

MEMORANDUM FOR: MARSHALL STALNTON
ADMINISTRATOR
ECONOMIC REGULATORY ADMINISTRATION

SUBJECT: Recusal from Texaco and Tesaro Cases

Effective immediately, I am hereby recusing you from further involvement, direct or indirect, in the Texaco and Tesaro cases, pending a review of information that has come to my attention involving an alleged appearance and/or a conflict of interest or the potential for such.

This recusal will remain in effect until further notice. You should immediately provide all files, notes, documents and related materials involving Texaco and Tesaro to Mr. Lorenz. A copy of my memo to Mr. Lorenz is attached.

Joseph F. Salgado
Under Secretary

Attachment

STATEMENT OF SENATOR MCCLURE

NOMINATION HEARING OF CHANDLER L. VAN ORMAN

DECEMBER 15, 1987

GOOD MORNING. I AM PLEASED TO BE HERE TODAY TO SUPPORT THE NOMINATION OF CHANDLER L. VAN ORMAN FOR THE POSITION OF ADMINISTRATOR OF THE ECONOMIC REGULATORY ADMINISTRATION AT THE DEPARTMENT OF ENERGY.

MR. VAN ORMAN HAS BEEN SERVING AS DEPUTY ADMINISTRATOR FOR THE ERA SINCE JULY OF 1987. PRIOR TO HIS APPOINTMENT AS DEPUTY ADMINSTRATOR, HE WAS EXECUTIVE DIRECTOR OF THE COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES. HE ALSO SPENT EIGHT YEARS AS A PARTNER IN THE LAW FIRM OF WHEELER AND WHEELER, AND SERVED AS GENERAL COUNSEL AT THE AGENCY FOR INTERNATIONAL DEVELOPMENT, AN ATTORNEY AT THE FEDERAL TRADE COMMISSION, AND ON THE STAFF OF THE SENATE JUDICIARY COMMITTEE. FROM THIS EXPERIENCE, HE HAS DEVELOPED SKILLS IN ADMINISTRATIVE AND REGULATORY LAW, LEGISLATIVE STRATEGY AND POLICY DEVELOPMENT AND NEGOTIATIONS WITH CONGRESS, FEDERAL AGENCIES AND COMMERCIAL ORGANIZATIONS.

MR. CHAIRMAN, I BELIEVE THAT MR. VAN ORMAN IS WELL QUALIFIED TO BE ADMINISTRATOR OF THE ECONOMIC REGULATORY AGENCY, AND I SUPPORT HIS NOMINATION.

Senator WIRTH. And the record will be left open for other statements that members might wish to make.

Mr. van Orman, perhaps you might join us at the witness table. Let the record show that Mr. van Orman is also accompanied by Mrs. van Orman and by his father-in-law, and I would assume other well-wishers are here as well.

Mr. van Orman, the rules of the Committee which apply to all nominees require that they be sworn in in connection with their testimony. Please rise and raise your right hand.

[Whereupon Mr. van Orman was duly sworn by Senator Wirth.]

Senator WIRTH. Thank you.

Before you begin your statement, I will ask you three questions addressed to each nominee before this Committee:

First, will you be available to appear before this Committee and other Congressional Committees to represent Departmental positions and respond to issues of concern to the Congress?

Mr. VAN ORMAN. I will.

Senator WIRTH. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. VAN ORMAN. Mr. Chairman, my investments, personal holdings, and other interests have been reviewed by myself and the appropriate ethics counselors within the federal government. I have taken appropriate action to avoid any conflicts of interest.

There are no conflicts of interest or appearances thereof, to the best of my knowledge.

Senator WIRTH. Are you involved or do you have any assets held in blind trust?

Mr. VAN ORMAN. No, I do not.

Senator WIRTH. You may proceed. Thank you very much for making that record with us as well.

Let me point out that your statement will be included in full in the record, as will the appropriate ethics information which you have submitted to the Committee, dated December 11, 1987. It will be included as appropriate in the record.

And why do you not proceed in whatever way you think would be most appropriate for the record.

STATEMENT OF CHANDLER L. VAN ORMAN, NOMINEE TO BE ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY

Mr. VAN ORMAN. Mr. Chairman and members of the Committee; it is an honor and privilege for me to appear before you today as the President's nominee to become Administrator of the Economic Regulatory Administration of the Department of Energy.

In my judgment, I bring to this most demanding position enthusiasm, a dedication to public service, and a wealth of experience gained from both the public and private sectors.

My public sector experience began when I served as a professional staff member on the Anti-Trust and Monopoly Subcommittee of the Committee on the Judiciary of the Senate. I have also been an

attorney in the Bureau of Competition with the Federal Trade Commission. I have also served as general counsel of the Agency for International Development, as director of Private Sector Involvement and Counselor to the Administrator of the 1983 Summit of Industrialized Nations, and recently as Executive Director of the 1986 Commission on Executive, Legislative and Judicial Salaries.

Since mid-July, I have served as Deputy Administrator of the Economic Regulatory Administration.

On the private sector side, I have practiced administrative and regulatory law for nearly 20 years. I have represented numerous Fortune 500 companies before federal courts, agencies, and commissions. I have developed legislative strategy and policies, conducted negotiations with Congress and numerous government agencies, and drafted proposed legislation, all relating to matters of transportation, mergers, labor, licensing, safety, and finance.

As you know, Mr. Chairman, the ERA is charged with the responsibility of completing regulatory enforcement actions relating to crude oil and petroleum product pricing and allocation violations which occurred from August 1973 through decontrol in January 1981. In addition to its EPAA enforcement activity, the ERA currently administers the natural gas and electricity import and export licensing program.

Although President Reagan decontrolled the pricing and allocation of crude oil and petroleum products in January of 1981, the statutes creating the ERA are still on the books and the work of enforcing the controls during their period of effectiveness continues.

It is the intention of President Reagan and the Secretary of Energy to conclude as promptly and responsibly as possible all remaining oil overcharge cases either by settlement or by litigation. I share that intention and, within the bounds of our statutory mandates, will endeavor to resolve all remaining cases with as much dispatch as possible.

Based on this Administration's commitment and upon my own experience to date in the enforcement program, my principal goal is reaching a final resolution of the complex cases currently being litigated by the agency. To that end, I see reasonable settlement as the best way to achieve accelerated resolutions in the most cost effective manner.

An agreed settlement requires intelligent assessments by both sides of the risks inherent in continuing to litigate a case. In my brief time at ERA, I have also recognized that in many instances the public interest and restitution can best be served by agreements that allow companies to continue in business.

In these difficult times, effecting such fine balances is a desirable objective and a weighty responsibility.

The regulatory price control program, which affected over 20,000 companies, was not without controversy even at its inception. Now, nearly seven years after the President lifted those controls, the controversy has not abated and still continues to touch Congress and the Administration.

The remaining active cases represent some of the largest and most complex in the history of the program. It is difficult to forecast a specific end to the present litigation, inasmuch as the meas-

ure of constitutional due process afforded litigants often requires several years before a case can reach final judgment.

With a continuing willingness on the part of the agency and the companies to settle reasonably, I can forecast an inexorable decline in this price control litigation. I will work to bring these cases to a responsible and prompt conclusion.

With respect to the natural gas import and export authorization program, I am dedicated to the Administration's policy of minimizing federal controls and intervention in energy markets. History has shown that if parties are permitted to negotiate commercial agreements free of Washington restraints, those agreements will generally be competitive and market responsive over their term.

These policies are also consistent with this Administration's efforts to bring about free trade in energy resources and with the recently signed Free Trade Agreement with Canada. The DOE's objective with respect to natural gas imports is to assure that a reliable supply of gas is available to the American consumer at competitive prices.

Mr. Chairman, if confirmed I will be assuming responsibility for an extremely sensitive and highly visible program. I will faithfully and conscientiously execute the laws and regulations I am charged with administering. This is a job that cannot be accomplished alone. In addition to relying upon the experienced staff at the agency, I will seek your help, guidance and support.

Mr. Chairman, I now stand ready to respond to whatever questions you and your colleagues might have.

Senator WIRTH. Thank you very much.

Do you think that the Administration under your leadership in this area will be able to resolve the oil overcharge cases by the time we have a change of Administrations?

Mr. VAN ORMAN. Mr. Chairman, I think without a doubt we will be able to initiate action in the few remaining cases.

Senator WIRTH. We have waited seven years for the initiation of action, or close to it.

Mr. VAN ORMAN. That is true.

Senator WIRTH. Why does it take seven years to initiate action? I can understand completion, but why does it take seven years to initiate action?

Mr. VAN ORMAN. Most of the cases are out of audit. To my knowledge, there are seven remaining cases in which litigation has not been instituted, just seven.

Senator WIRTH. How many cases remain to be resolved other than those seven?

Mr. VAN ORMAN. We have a current caseload of 280 cases which are at various stages in administrative and judicial litigation.

Senator WIRTH. Are those 280 going to be completed by the end of this Administration.

Mr. VAN ORMAN. Senator, I suspect that the last case will not be resolved for some years.

Senator WIRTH. How many cases will be resolved in 1988?

Mr. VAN ORMAN. That I cannot tell you because of the uncertainty of settlement or litigation.

Senator WIRTH. Ten percent, 20 percent, 50 percent?

Mr. VAN ORMAN. I would not hazard a guess.

Senator WIRTH. What do you think would be a fair assumption for us to be considering? I read to you what Mr. Hanzlik told the Committee and what Mr. Staunton told the Committee.

I realize you are reluctant to make the promises that they made, but those have not even begun to get touched as I understand it.

Mr. VAN ORMAN. The oil overcharge program will continue officially until the last case is resolved or the last dollar collected, whenever that might be. I can tell you with some assurance that there are or there appear to be only seven cases left in which litigation has not been instituted. Three of those are under settlement discussions at the current time.

A grand jury in Phoenix has the records in the fourth case, and we are really down to the bottom of the barrel. These should be instituted——

Senator WIRTH. How soon will the remaining seven be initiated?

Mr. VAN ORMAN. Again, I cannot commit to a date certain, but——

Senator WIRTH. Does it take a month or three weeks?

Mr. VAN ORMAN. Within 90 days. Do not hold me to it.

Senator WIRTH. Within 90 days, but do not hold you to it? I mean, what is going on down there? Do these take 10 days apiece or twelve days apiece. Where are they in the process?

Mr. VAN ORMAN. There is no specific time that we can ascribe to the process.

Senator WIRTH. I am talking about the initiation of these cases. To go back to where you said there were seven remaining cases that have not been initiated, how soon will those be initiated?

Mr. VAN ORMAN. That is a question I cannot answer.

Senator WIRTH. Why not? I do not understand what the process is, obviously, so you will have to tell me why they cannot be initiated, if we know that there are seven left, if we have had promises for seven years.

Mr. VAN ORMAN. In one case in particular, a grand jury, a federal grand jury in Phoenix, Arizona, has all the records that we need in order to audit in order to make a determination as to whether there is a violation. We do not know when we are going to get those.

Senator WIRTH. So a grand jury in Phoenix is holding one up. The other six, walk me through those?

Mr. VAN ORMAN. Three of the other six are very close to being ready to file, but these three involve a major refiner where the amounts of the violations are several hundred million dollars.

Senator WIRTH. Therefore?

Mr. VAN ORMAN. We are currently involved in settlement discussions with that refiner at the present time, and it is possible that we can resolve our differences short of initiating litigation.

If we cannot, then we will begin to file these very shortly.

Senator WIRTH. Are you going to settle ten cents on the dollar, or what is the settlement going to be? How is that going to be done?

Mr. VAN ORMAN. Senator, I have no idea what the amount of the settlement will be in this case. We have exchanged offers and counter-offers and are currently in the process of evaluating the last offer.

Senator WIRTH. And how soon do you think that those three will be taken care of?

Mr. VAN ORMAN. That is probably a question that the management of that company could answer better than I. We hope promptly.

Senator WIRTH. Promptly means? I mean, is this Hanzlik kind of promptly or is this van Orman promptly? What are we talking about?

Mr. VAN ORMAN. Well, I would like to think that my "promptly" is more prompt than his.

Senator WIRTH. And how long is that? How long is that going to be?

Mr. VAN ORMAN. Senator, I really can not give you a date certain by when we will resolve this. I just flat do not know.

Senator WIRTH. What is the maximum that we ought to expect?

Mr. VAN ORMAN. In this one particular case?

Senator WIRTH. No, there are three that you said—the grand jury, we are sitting in the grand jury. All right, now we are down to three where there is a major, major problem with a single refiner, is that right?

Mr. VAN ORMAN. There are two other cases involving smaller refiners. A total of five companies, seven cases.

Senator WIRTH. But there are three that are dealing with one refinery, is that right?

Mr. VAN ORMAN. Yes.

Senator WIRTH. Okay. Now, let us talk about that refinery. When are you going to initiate the action related to that one refiner?

Mr. VAN ORMAN. With respect to a company named Howell, I think that we are in the process of drafting a PRO, which means that the audit phase is complete. We have made a determination as to the existence of a violation. We are drafting the proposed remedial order right now and we are probably weeks away, several weeks away from filing that PRO.

Senator WIRTH. Okay. Now let us then—that leaves us with three, right? Tell us about those other three?

Mr. VAN ORMAN. To the best of my knowledge, the audits have been completed in the remaining cases. The PRO's in both of those cases are in the process of being drafted.

Senator WIRTH. So we are weeks away from those as well?

Mr. VAN ORMAN. I believe so, yes.

Senator WIRTH. So six out of seven will be done within a matter of weeks, which generally in the colloquialisms of the 1987 English language means within a couple of months.

Mr. VAN ORMAN. There is one case remaining, the Solomon case, which is extremely difficult, involves a very large violation. And we are in the subpoena stage in that case. We do not have all the documents yet from that company, and that will be much longer in the preparation. How long, again I cannot tell you specifically.

Senator WIRTH. Let me on behalf of the Committee just suggest that we would be happy to offer any help and resources and nudging or whatever to get these resolved. I understand that in the context of this Administration, they do not like the law, they do not like the fact that they have had to enforce the law, and would like

to duck it, and that has been going on for the last seven years and we are all familiar with that.

But I think whether or not one likes the law, you have two choices: One is to come up here and change the law and the other is to enforce the law. And that third choice is sort of like the search for the maybe button when you are voting. You have to vote yes or no; you cannot vote maybe.

You either change the law or enforce the law, and those are the two choices that are there. And one of the concerns that the Committees of the Congress have had—this was a concern on the House side when I was a member of the Commerce Committee there and a member of the Energy Subcommittee there—are really deep concerns about the commitment of the Administration to enforcing the law.

And you are familiar with that, I know. And you have a very distinguished record behind you, and we look forward to your shepherding this set of responsibilities on behalf of the American people.

Let me ask you a final question if I might. Could you tell us why Mr. Staunton was fired?

Mr. VAN ORMAN. Senator, I do not know for a fact that he was. When I was approached in early June, I was told that he had evidenced a desire to seek employment outside the Department.

To the best of my knowledge, that is still the case. I do not know anything to the contrary, nor has he discussed his employment plans with me.

Senator WIRTH. Can you tell us how your stewardship of the agency will be different from his?

Mr. VAN ORMAN. Well, I have only been there since mid-July, so I do not have any extensive history in dealing with him or his management of the program. I would propose to rely on the experienced and dedicated staff of the agency.

I believe that we can instill a higher sense of morale than currently exists by eliminating some of the uncertainty and doubt as to the organizational structure and proceed with enforcing the law and getting on with the program.

Senator WIRTH. Has he not depended on the staff there?

Mr. VAN ORMAN. He has to the best of my knowledge.

Senator WIRTH. So in depending on the staff you would be doing what we did?

Mr. VAN ORMAN. Well, again, I have only worked since mid-July with him. We have worked on some cases together, very few. I have not had an extensive opportunity to observe him at work.

I can only say that I would bring my own management style, which I think is effective and efficient, in bringing these cases to prompt resolution.

Senator WIRTH. You cited three areas that would characterize your stewardship, and I gather those were in contrast to what he was suggesting, or at least that was the implication: dependence on the staff, focus on morale of the agency and the organizational uncertainty that has existed there, and the enforcement of the law.

He has tried to do all those things as well.

Mr. VAN ORMAN. As far as I know he has, yes.

Senator WIRTH. So what is the difference going to be between your stewardship and his?

Mr. VAN ORMAN. Well, to be very specific, I could not tell you, other than what I propose to do is to resolve these cases as promptly and responsibly as we can. I assume that he has attempted to do that.

Senator WIRTH. Well, we look forward to your fulfilling those responsibilities, as you know, and doing that as rapidly as possible.

As I pointed out, there will be a variety of questions for you for the record, and we would hope that those could be handled as expeditiously as possible. Senator Johnston has asked that we leave the record open for answers to questions, including a group that he will be submitting. I will leave the record open for questions until December 18 at the close of business that Friday, if we could do that. And so all of those will get down to you.

I know that Senator Johnston has questions. Senator McClure had some comments that he wanted to make. And I think it is probably fair to say that Chairman Dingell will have some questions as well. I know that he has been concerned for some time, although I would not like to speak for John. He is always able to speak for himself, as you know.

Is there anything else that you would like to add for the good of the record this morning?

Mr. VAN ORMAN. Nothing at all, Senator.

Senator WIRTH. Good. Thank you very much for coming up. We are delighted to have you here and that you will be taking this responsibility on. I hope that the confirmation process goes rapidly so that you can then address yourself to the rapid completion of those 287 cases that are out there.

Mr. VAN ORMAN. Thank you very much.

Senator WIRTH. Thank you very much for being here, and the Committee will be adjourned.

[Whereupon, at 9:55 a.m., the hearing adjourned.]

APPENDIXES

APPENDIX I

Informational Statement of Chandler van Orman

Department of Energy
Washington, DC 20585

December 11, 1987

The Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Please be advised that, pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a)(1)(A) of the Ethics in Government Act of 1978 (Pub. L. 95-521, as amended) with respect to income and honoraria is current as of Friday, December 11, 1987. This date is within five days prior to the date of the first hearing scheduled to consider my nomination.

Sincerely yours,

Chandler L. van Orman

DISTRICT OF COLUMBIA ss

Subscribed and sworn to before me this 11th day of December, 1987.

Notary Public
My Commission Expires November 14, 1989

cc: The Honorable James A. McClure

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: van Orman (LAST) Chandler (FIRST) Lee (OTHER)

Position to which nominated: Administrator, ERA, DOE Date of nomination: Nov. 5,1987

Date of birth: 15 (DAY) 1 (MONTH) 41 (YEAR) Place of birth: Oak Park, IL

Marital status: Married Full name of spouse: Kendall Wheeler van Orman

Name and ages of children: Robin 18; Cameron 13

Education:

Institution	Dates attended	Degrees received	Dates of degrees
UNC Chapel Hill, NC	'58 - '63	A.B.	June '63
UVA Charlottesville, VA	'63 - '66	J.D.	June '66

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

See Attachment No. 1

Employment record—Continued

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Full Athletic Scholarship, UNC, Chapel Hill, NC

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
The Chili Bull Comm.	1980 - present	Director
Int'l. Womens Leadership Exc. Inc.	1985 - "	"
Anniversary Ball Comm.	1982 - "	Sec. & Dir.
Kenwood Citizens Ass'n.	1985 - "	" "
Nat'l. Boating Safety Advisory Council	1987 - "	Member
Charlotte & Ed. Wheeler Foundation	1987 - "	Director

2

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

None

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Present employer is Department of Energy

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No, No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

I had an informal understanding with Wheeler and Wheeler, my former law firm, that I would receive a share of the firm's profits for the period Jan-July 1987. However, I have been informed that there will be no profits due to extraordinary overhead expenses. Even if a small amount of money were to become available for distribution, I will decline to accept it. I am not entitled to any other payments from the firm, and I have severed all relationships with the firm.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

See companies listed in attached recusal statement. (No. 2)

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

See Attachment No. 3

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

See Attachment No. 4

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I will avoid participation in any particular matter the outcome of which could have a direct and predictable effect on any entity in which I have a financial interest. I will also continue to seek and comply with the advice of the Office of the General Counsel of the Dept. of Energy.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No

AFFIDAVIT

) ss

I, C.L. van Orman being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

C. van Orman
(Signature of Nominee)

Subscribed and sworn to before me this 6th day of November, 1987.

Darcy M. Bhadra
Notary Public

My commission expires March 31, 1991

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1987—67-074

van Orman, Chandler L. Attachment No. 1

Employment Record

(a) Commission on Executive Legislative and Judicial Salaries: Executive Director 1986-1987
Wash., DC

Primary responsibility for preparation of Commission's report to the President analyzing and recommending revised salary structure for Executive, Legislative and Judicial Branches.

(b) Wheeler & Wheeler: Partner 1984-1987
1729 H Street, N.W. 1967-1982
Wash., DC

Wide ranging administrative and corporate practice with emphasis on development and conduct of policy negotiations with federal agencies in transportation, commerce, trade and labor matters. Extensive litigation on behalf of major foreign and domestic corporations relating to transportation mergers, labor, acquisitions, securities, licensing, safety and finance.

(c) 1983 Summit of Industralized Nations: Director, 1983
Private Sector Involvement; Counsel to Administrator
Wash., DC

Primary responsibility for identification and coordination of all private sector participation in 1983 Economic Summit. Legal Counsel to Administrator.

(d) Agency for International Development: 1982-1983
General Counsel
Wash., DC

Chief legal officer of AID, which administered $5 billion in economic assistance programs of the United States Government. Provided legal and policy guidance for expanded involvement of AID with United States and foreign private sectors including banking and credit institutions and insurance companies.

(e) Federal Trade Commission: Attorney/Investigator 1966-1967
Bureau of Competition
Wash., DC

Conducted multiple investigations into allegations of anti-competitive price fixing and deceptive trade practices in several major industries, under provisions of various antitrust statutes.

(f) Antitrust and Monopoly Sub-Committee: Professional Staff Member — 1962-1963
Committee on the Judiciary, United States Senate

Conducted substantive and highly sensitive research of alleged antitrust violations and possible monopolistic combinations in the automobile, bread and steel industries. Coordinated research and analysis in terms of political strategy, developed background information, prepared memoranda and briefed committee members in preparation for public hearings.

Attachment No. 2

RECUSAL STATEMENT

CHANDLER L. van ORMAN

I hereby recuse myself from participating, as Administrator of the Economic Regulatory Administration, in any Departmental matter in which IBM, Schlumberger Ltd., Foster Wheeler Corp., Fairchild Industries Inc., or the National Boating Safety Advisory Council, is involved.

I have directed Myra Fisher, Secretary to the Administrator of the Economic Regulatory Administration, to route all such matters to Milton C. Lorenz, Special Counsel of the Economic Regulatory Administration.

Nov 6, 1987
Date

Chandler L. van Orman

van Orman, Chandler L. Attachment No. 3

Potential Conflicts of Interest

3.(a) During 1979 I, along with other partners in my firm, represented the International Brotherhood of Teamsters as its interests appeared in the enactment of The Motor Carrier Act of 1980.

(b) From 1980 - 1982 I, along with other members of my firm, represented Brink's, Inc. as its interests appeared in an attempt to amend § 9(b)(3) of the National Labor Relations Act.

van Orman, Chandler L. Attachment No. 4

Potential Conflicts of Interest:

5. In accordance with the requirements of the DOE Organization Act, for one year from the commencement of my employment with the Department of Energy, I will avoid participation in any proceeding involving an energy concern client for whom I provided services during the last five years. I have also recused myself from participation, as Administrator of the Economic Regulatory Administration, from any matter in which certain entities in which I have an interest are involved. A copy of the recusal is attached. (No. 2)

- 387 Attachment No. 2

RECUSAL STATEMENT

CHANDLER L. van ORMAN

I hereby recuse myself from participating, as Administrator of the Economic Regulatory Administration, in any Departmental matter in which IBM, Schlumberger Ltd., Foster Wheeler Corp., Fairchild Industries Inc., or the National Boating Safety Advisory Council, is involved.

I have directed Myra Fisher, Secretary to the Administrator of the Economic Regulatory Administration, to route all such matters to Milton C. Lorenz, Special Counsel of the Economic Regulatory Administration.

Nov 6, 1977
Date

Chandler L. van Orman

United States Government | Department of Energy

memorandum

DATE: NOV 09 1987

REPLY TO ATTN OF: GC-43

SUBJECT: Statement of Agency Ethics Official for Senate Committee

TO: Chandler L. van Orman

This memorandum is intended to serve as a statement from the designated agency ethics official for this Department, as required by question 5, page 6, of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources in connection with your nomination for the position of Administrator of the Economic Regulatory Administration. I have reviewed your Standard Form 278 (Financial Disclosure Report) dated October 28, 1987, and your Form DOE-460 (Report on Prior Employment) dated July 9, 1987, 1/ and have certified that the information contained therein discloses no conflict of interest under applicable laws and regulations. 2/

As a supervisory employee of the Department, you are prohibited by section 602(a) of the Department of Energy (DOE) Organization Act (Pub. L. 95-91) from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in section 601(b) of the Act as any entity "significantly engaged in the business" of any of a variety of activities related to energy production, distribution, sale, or research and development, or any entity significantly engaged in such research and development pursuant to a DOE-funded program irrespective of whether it otherwise engages in such business. The term also includes any entity holding an interest in property from which an energy resource is commercially produced or obtained.

1/ The Form DOE-460 was filed in connection with your appointment to the position of Deputy Administrator of the Economic Regulatory Administration pursuant to the DOE Organization Act (Pub. L. 95-91). The Act does not require you to submit another such report at this time.

2/ Section 201(b) of the Ethics in Government Act (Pub. L. 95-521) requires the income and honoraria information on your form to be updated within five days before the date of the Committee hearing to consider your nomination.

Section 606(a) of the DOE Organization Act prohibits a supervisory employee of the Department, for a period of one year after terminating employment with any energy concern, from knowingly participating in any Department proceeding involving that energy concern (other than a general rulemaking). Section 606(b) of the Act prohibits a supervisory employee, for a period of one year after commencing service in the Department, from knowingly participating in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while employed by any energy concern within the previous five years. The term "Department proceeding" is defined in section 1010.103(h) of title 10, Code of Federal Regulations, as "any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved.

You reported in attachments to your Standard Form 278 and your Form DOE-460 that, as a partner in the law firm of Wheeler and Wheeler, your clients included Pittston Company and Santa Fe Southern Pacific Corporation. Each of these entities has been determined to be an energy concern within the meaning of section 601(b) of the Department of Energy Organization Act. While we are not aware of any Department proceeding from which section 606 would require your recusal because of this past employment, you should be aware of the provisions of section 606 as they might relate to the services you performed for these entities.

Finally, section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, you have or your spouse, minor child, partner, organization in which you are serving as officer, director, trustee, partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment has, a financial interest. In Schedule A of your Standard Form 278, you have reported financial interests in IBM, Schlumberger Ltd., Foster Wheeler Corp., and Fairchild Industries Inc. These entities have financial relationships with the Department or have interests that could be affected by the Department's programs or policies. Accordingly, you have executed a statement recusing yourself from participating, as Administrator of the Economic Regulatory Administration, in any Departmental matter in which these entities are involved. 3/

3/ The recusal statement includes matters involving the
(Footnote Continued)

Please let me know if I can be of further assistance.

Ralph D. Goldenberg
Assistant General Counsel
for General Law

(Footnote Continued)
National Boating Safety Advisory Council, of which you are a member. While, technically, this interest may not fall within the proscriptions of section 208, it is included in the recusal statement in order to avoid any suggestion of conflict of interest.

SF 278 (Rev. 1/87)
Office of Government Ethics
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. 3209-0001

Reporting Status (Check Appropriate Box)		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee, or Candidate ☐ Termination Filer	OCT 29 1987			

Reporting Individual's Name	Last Name: van Orman	First Name and Middle Initial: Chandler L.
Position for Which Filing	Title of Position: Administrator, E.R.A.	Department or Agency (If Applicable): Dept. of Energy
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 5B-148,1000 Indep. Ave., SW,Wash., DC 20585	Telephone No. (Include Area Code): (202) 586-6781
Position(s) Held With the Federal Government During the Preceding 12 Months (If Same as Above)	Title of Position(s) and Date(s): Ex. Dir., Comm. on Exec. Legis. & Jud. Salaries, 10/86-2/87 Dep. Adm., Econ. Reg. Adm., DOE, 7/13/87 to present	
Presidential Nominees Subject to Senate Confirmation	Name of Committee: Energy & Natural Resources	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Certification

I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.

Signature: Chan Orman — Date (Month, Day, Year): October 28, 1987

Other Review (If desired by agency)

Signature of Other Reviewing Official — Date (Month, Day, Year):

Agency Ethics Official's Opinion

The information contained in this report discloses no conflict of interest under applicable laws and regulations.

Signature of Designated Agency Ethics Official Reviewing Official: Roger D. Fauntleroy — Date (Month, Day, Year): 11/9/87

Office of Government Ethics Use Only

Signature — Date (Month, Day, Year):

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Conflict of interest advice provided in DAEO letter, copy attached.
(SF)
11-04-87

(Check box if comments are continued on the reverse side) ☐

PREVIOUS EDITION USABLE

EN-168

NSN 7540-01-351-9446

Reporting Periods

Incumbents: Complete Parts A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I (Liabilities)**—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II (Agreements and Arrangements)**—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

SF 278 (Rev. 1/89)
Filing Copies 7/94
U.S. Office of Personnel Management

OCT 2 9 1987

Form Approved
OMB No. 3209-0006

Reporting Individual's Name	Assets and Income	Page Number		Schedule
van Orman, Chandler L.			1	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets							BLOCK C Income															BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If you complete Sched. B Part I for these assets including those sold for a loss.	
		None (or less than $1001)	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
S or DC	Exam-ples: X Y Z Common			x					x									x								x	
	Doe Jones & Smith, Hometown, USA			x					x						ptnrship income									000,000			
1	Law firm (see Sched. C Pt. II) Wheeler & Wheeler, Wash., DC														Ptnrshp Income							x		$122,860	1/01/86 to present		
2 DC	Wheeler, Inc. (Cable TV)*														Distri. of Assets									98,000			
3	Alex Brown & Sons		x						x								x										
4 S	Avon Corp.		x						x								x										
5	Merrill Lynch CMA**	x									x						x										
6 S	Brokerage house (acct. contains only cash) Folger Nolan & Fleming	x									x					x											
7 S	Alex Brown		x								x					x											
8	Lowes Co.		x						x								x										
9 S	Merrill Lynch R.A. Trust			x					x									x									
10 S	Oppenheimer Fund		x						x								x										

PREVIOUS EDITION USABLE

*All assets sold July '87 and distributed to share holders.

**No contents at present - contained Treasury bonds & notes

170-000

81-695 O - 88 - 4

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OGE 278 (Rev. 1/86)
5 CFR Chapter XVI
U.S. Office of Personnel Management

OCT 2 0 1987

Form Approved:
OMB No. 3209-0001

Reporting Individual's Name	Assets and Income	Page Number		Schedule
van Orman, Chandler L.			2	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Terminating Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets								BLOCK C Income													BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)								Type of Income (X)							Category of Amount of Income (X)										If yes, complete Sched. D Part I for those assets indicating those sold for a loss.	
		None (or less than $1001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000			Dividends	Rent	Interest	Capital Gains	Exempted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Yes	No
S or DC	Examples							X Y Z Common		X									X								X	
				X				Doe Jones & Smith, Hometown, USA								ptnrship income									$60,000			
1			X					Seligman C&I Fund		X							X											
2		X						Southern Union Co. (sold 7-08-87 at a loss)		X							X											
3				X				Washington Mutual Investors Fund (WMIF)		X			X								X							
4 S			X					Piedmont		X									X									
6 S			X					Amer. Gen. Corp.		X									X									
6					X[1]			Defense Contractor Technatics, Inc., Arlington, VA								Dir. Fee Income[4]	X[1]								$800-[4]	[2]		
7						X		Commercial Real Estate Tustin Assoc. L/P, Tustin, Calif.								Ltd. Ptnrshp Income		X										
8					X			Residential Real Estate Aspen Crossing Assoc. L/P, Montg.Co., MD								"		X										
9							X	Real Estate Partnership KNAC Assoc., Manassas, VA			X					General Partner	X								$1780-			
10					X			Residential Real Estate Pobin Assoc. L/P, Fredericksburg, VA			X						X											

PREVIOUS EDITION USABLE

278-000

U.S. Office of Personnel Management

OCT 2 9 1987

Form Approved: OMB No. 3209-0006

Reporting Individual's Name	Assets and Income	Page Number		Schedule
van Orman, Chandler L.			3	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Terminated Filers only: In BLOCK D, did any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets								BLOCK C Income																BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)								Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Sched B Part I for those assets exchanging those sold for a loss.	
		None (or less than $1001)	$1,001 $5,000	$5,001 $15,000	$15,001 $50,000	$50,001 $100,000	$100,001 $250,000	Over $250,000		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101 $1,000	$1,001 $2,500	$2,501 $5,000	$5,001 $15,000	$15,001 $50,000	$50,001 $100,000	Over $100,000			YES	NO
S or DC	Examples: XYZ Common				X					X																	X	
	Doe Jones & Smith, Hometown, USA			X												partnership income			X						$40,000			
1	Office Equip. Leasing Co. (to be dissolved) Infinite Inds. Inc., Arlington		X							X								X									
2 S	Riggs Bank (Savings)			X								X						X									
3	First Am. Bank (Savings)			X								X						X									
4 S	Real Estate Co. Burr, Morris, Pardoe															Real Est. Comms.							X				
5	Washington Mutual Investors Fund IRA		X													IRA	X										
6 S	" " "		X													IRA		X									
7 DC	New Economy Fund		X							X							X										
8 DC	IBM Corp.			X						X								X									
9 S	Rohr Industries		X														X										
10 DC	Schlumberger Ltd.		X							X							X										

PREVIOUS EDITION USABLE

270-200

FPM Chapter 294
U.S. Office of Personnel Management

Form Approved
Form No. 3209-0006

Reporting Individual's Name	Assets and Income	Page Number		Schedule
van Orman, Chandler L.			4	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources			BLOCK B Valuation of Assets								BLOCK C Income																BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐			Category of Value (X)								Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Sched. B Part I for these assets, and/or Sched. C Part II for a loan	
			None (or less than $1001)	$1,001 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000			YES	NO
S or DC	Examples:	X Y Z Common				X					X									X								X	
		Doe Jones & Smith, Hometown, USA			X												partnership income										$40,000			
1 S	Sunrise Medical, Inc.			X							X								X										
2 DC	Alex Brown Cash Res. Fnd.				X						X							X											
3	Foster Wheeler Corp.					X					X								X										
4	Cordatum Inc.			X														X											
5	Hechinger Co.		X								X							X											
6	Insilco Corp.				X						X								X										
7	Nat. Dist. & Chem. (Sold 7-08-87)										X[1]			X[2]					X[1]				X[2]	(3)					
8	Pac. Scientific Co.				X						X								X										
9	Parker Drilling Co. (Sold 7-08-87)										X[1]			X[2]				X[1]					X[2]	(3)					
10	Patlex Corp.			X														X											

PREVIOUS EDITION USABLE

370-388

SF 278 (Rev. 1/83)
FPM Chapter 735
U.S. Office of Personnel Management

OCT 29 1987

Reporting Individual's Name		Page Number		Schedule
van Orman, Chandler L.	**Assets and Income**	5		A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Terminating Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets	BLOCK C Income																						BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)	Type of Income (X)							Category of Amount of Income (X)															If yes, complete Schd. D Part I for those assets indicating those sold for a loss.	
S or DC / Example: XYZ Common; Doe Jones & Smith, Hometown, USA	None (or less than $1001) / $1,001-$15,000 / $15,001-$50,000 / $50,001-$100,000 / $100,001-$250,000 / Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
Example: XYZ Common; Doe Jones & Smith, Hometown, USA	X	X			X																				X	
1 Royal Apex Silver Inc.	X							partnership income	X								$50,000							
2 Fidelity Money Mkt. Port.		X			X			Keogh			X														
3 Marriott Corp.		X			X			"		X															
4 MCI Corp.		X	X					"			X														
5 Natl. Med. Entp. Inc.		X	X					"		X															
6 Fairchild Inds. Inc.		X	X					"		X															
7 Mobil Corp. (Sold 7-08-87 at a loss)		X	X					"		X															
8 Wash. R.E. Inv. Tr.*		X	X					"		X															
9 Seligman High Inc. Fund.		X	X					"		X															
10																									

PREVIOUS EDITION USABLE

*Nat'l. Bank of Wash. Trustees - consists of commercial properties.

370-200

SF 278 (Rev. 1/89)
Filed Chapter 73d
U.S. Office of Personnel Management

OCT 2 5 1:37

Form Approved
OMB No. 3209-0567

Reporting Individual's Name
van Orman, Chandler L.

Page Number	1	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC	Example:	Identification of Asset	Type of Transaction (X) Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X) $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000
		¹X Y Z Common	X			2/1/83			X		
1											
2											
3											
4											
5											
6											

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S	Example:	Source (Name and Address)	Brief Description	Value
		Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 8/18/83	$400
		Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1				
2				
3				
4				
5				
6				

PREVIOUS EDITION USABLE

278-100

SF 278 (Rev. 1-88)
Part Chapter 734
U.S. Office of Personnel Management

OLT ? . 87

Form Approved
OMB No. 3209-0007

Reporting Individual's Name
van Orman, Chandler L.

Page Number	1	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	Example: First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs.			X		
	Example: John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1	The Mortgage Ser. Corp., Akron, OH	Mortgage on Townhouse in	1974	9-3/4	30 yr		x			
2		Hidden Valley, PA								
3		This Townhouse is used as a personal residence only. (SF) 11-3-87								
4										
5										
6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	3/76 partnership agmnt
	~~Not Applicable~~.		
	Mr. Van Orman had an informal understanding with Wheeler and Wheeler, his former law firm, that he would receive a share of the firm's profits from 1-01-87 to 2-15-87. He has now been informed that down with the no profit plus Special overhead expenses incurred by the firm. He has a gentl. that, should he be offered a share (because expenses were not as high as predicted), he would decide to accept it. EF 11-03-87	Wheeler and Wheeler, his former law firm	1-01-87 to 2-15-87

PREVIOUS EDITION USABLE

370-105

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SF 278 (Rev. 1992)
Filed Chapter 73d
U.S. Office of Personnel Management

Reporting Individual's Name
van Orman, Chandler L.

OCT 2 9 1987

Form Approved
OMB No. 3209-0006

Page Number	2	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/76	11/83
The Chili Bull Committee D.C.	Non-Profit (Raises money for Children's Hospital)	Director	1980	Present
Int'l. Womens Leadership Exchange, Inc. D.C.	Non-Profit (Fosters exchange program w/foreign countries for prof. women)	Director	1985	Present
The Anniversary Ball Committee, Inc. D.C.	Non-Profit (Presidential anniv. inaug. ball)	Secretary, Director	1982	Present
Kenwood Citizens Assn. Inc. Kenwood, MD	Non-Profit (Neighborhood Assn.)	" "	6/85	Present
Wheeler , Inc. D.C.*(family-owned Salem, Missouri) (no income to Mr. van Orman & no other interest in co.)	Corp. (Cable TV Sys.)	Director	6/85	10-26-87
National Boating Safety Advisory Council, Member *(all assets sold July 1987)	Statutory (DOT) (Makes recommendations to Coast Guard on Boating Safety)	Member	3/87	Present

Part II
Compensation In Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period.

This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

PREVIOUS EDITION USABLE

278-100

SF 278 (Rev. 1/95)
PPM Chapter 734
U.S. Office of Personnel Management

OCT 23 1987

Form Approved
OMB No. 3209-0060

Reporting Individual's Name
van Orman, Chandler L.

Page Number	3	Schedule J

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/83	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/76	11/83
Charlotte and Edward Wheeler Foundation D.C.	Non-Profit (makes grants to hospitals & schools)	Director (no income)	3/87	Present
501(c)(3) org.				

Part II
Compensation in Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

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278-1/93

Attachment for Schedule D, part II

Client List for Wheeler & Wheeler

1982-83

NAME OR PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION
Bi-Modal Corporation	200 Railroad Avenue Greenwich, CT 06836	transportation
Brink's Incorporated	P.O. Box 1225 Thorndal Circle Darien, CT 06820	armored cars
L&L Marine Service, Inc.	10 South Brentwood St. Louis, MO 63105	towing company
The Pittston Company	One Pickwood Plaza Greenwich, CT 06830	owns Brink's
Pre-Fab Transit Co.	P.O. Box 146 Farmer City, IL 61842	truck line
Zenith Electronics Corporation	1000 Milwaukee Avenue Glenview, IL 60025	electronics
Chicago & Northwestern Transportation Co.	One Northwestern Center 165 North Canal St. Chicago, IL 60606	transportation (owns Chi. NW RR)
Santa Fe Southern Pacific Corp.	115 South Michigan Ave. Chicago, IL 60604	transportation

1984

NAME OR PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION
Brink's, Incorporated	P.O. Box 1225 Thorndaly Circle Darien, CT 06820	armored cars
Chicago & Northwestern Transportation Co.	One Northwestern Center 165 North Canal St. Chicago, IL 60606	transportation
Pre-Fab Transit Co.	P.O. Box 146 Farmer City, IL 61842	trucking
City of San Jose	801 North First Street San Jose, CA 95110	municipality
SCNO Barge Lines	120 South Central St. Louis, MO 63105	barge line
Santa Fe Southern Pacific Corporation	115 South Michigan Ave. Chicago, IL 60604	transportation
Techmatics, Inc.	2231 Jefferson Davis Highway, Suite 1000 Arlington, VA 22202	defense contractor

1985

NAME OF PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION
Brink's Incorporated	P.O. Box 1225 Thorndal Circle Darien, CT 06820	armored cars
Cincinnati Southern Railway	City of Cincinnati City Hall Cincinnati, OH 45202	transportation
Contrans Corporation	P.O. Box 3020 Stn. B Hamilton, Ontario L8L 7X7	transportation bldg. co.
DART	300 W. Service Road Suite 200 Dulles International A/P Washington, DC 20041	Dulles Access Rapid Transit rail lines
The Pittston Company	One Pickwick Plaza Greenwich, CT 06830	owns Brink's
Pre-Fab Company	P.O. Box 146 Farmer City, IL 61842	truck line
City of San Jose	801 North First Street San Jose, CA 95110	municipality
Techmatics, Inc.	2231 Jefferson Davis Highway, Suite 1000 Arlington, VA 22202	defense contractor

1986-87

NAME OR PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION
Brink's Incorporated	P.O. Box 1225 Thorndal Circle Darien, CT 06820	armored cars
Chicago West Pullman Corporation	2728 East 104th St. Chicago, IL 60617	transportation bldg. co.
Cincinnati Southern Railway	City of Cincinnati City Hall Cincinnati, OH 45202	transportation
Empire Communications	5911 S. Middlefield Rd. Littleton, CO 80123	cable TV operator
Kaybee Corporation	153 East 53rd Street Suite 4000 New York, NY 10022	real estate developer
The Pittston Company	One Pickwick Plaza Greenwich, CT 06830	owns Brink's
Scott Sailmakers	P.O. Box 4606 Annapolis, MD 21403	sail maker
Prudential Lines, Inc.	1 World Trade Center Suite 2511 New York, NY 10048	steamship line

Executive Level Position Statement

Position Title: Administrator, Economic Regulatory Administration

Grade: EL-IV - Presidential Appointee

The Administrator for the Economic Regulatory Administration (RG) is the principal advisor to the Secretary on the management and direction of economic regulartory programs other than those which are the responsibility of the Federal Energy Regulatory Commission (RC) or other components of the Department. The Administrator is responsibile for enforcement of pricing and allocation regulations in effect prior to the decontrol of crude oil and petroleum products on January 28, 1981; the conversion of oil and gas fired utility and industrial facilities to coal or other alternative fuels; natural gas import/export controls; natural gas curtailment priorities and emergency allocation; and an intervention program on behalf of the Secretary before the RC and other Federal and State regulatory agencies in support of Departmental policy objectives.

Manages and directs the enforcement of laws and regulations, audits of prices charged by oil companies, and the investigation of possible criminal and civil violations.

Administers programs under the Powerplant and Industrial Fuel Use Act to encourage the use of coal and other alternate fuels by utilities and major industrial installations.

Controls natural gas imports and exports; establishes, reviews, and revises natural gas curtailment priorities.

Administers the Oil Imports Program.

Administers and provides for the orderly close-out of the petroleum operations programs.

Manages interventions on behlaf of the Department in proceedings before State and Federal regulatory agencies in pursuit of national energy objectives.

APPENDIX II

Responses to Additional Committee Questions

Department of Energy
Washington, DC 20585
January 21, 1988

Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Enclosed you will find responses to the questions submitted by Committee members on December 18, 1987. These questions were in addition to the testimony I gave before your Committee regarding my nomination as Administrator of the Economic Regulatory Administration.

I have sent Senators Metzenbaum, Weicker, Nickles, Evans, Bingaman and Domenici responses to their respective questions directly to them as well as a copy to you.

If you or other Committee members have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosures

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Howard M. Metzenbaum
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Metzenbaum:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Lowell P. Weicker, Jr.
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Weicker:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Don Nickles
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Nickles:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Daniel J. Evans
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Evans:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Jeff Bingaman
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Bingaman:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

Celebrating the U.S. Constitution Bicentennial — 1787-1987

Department of Energy
Washington, DC 20585

January 21, 1988

Honorable Pete V. Domenici
Committee on Energy and
Natural Resources
United States Senate
Washington, D. C. 20510

Dear Senator Domenici:

On December 18, 1987, I testified before the Committee on Energy and Natural Resources regarding my nomination as Administrator of the Economic Regulatory Administration.

Following that hearing, you submitted written questions for which I am now providing a response.

If you have further questions, please do not hesitate to contact me.

Sincerely,

C. L. van Orman

Chandler L. van Orman
Deputy Administrator
Economic Regulatory Administration

Enclosure

RESPONSES TO QUESTIONS FROM SENATOR J. BENNETT JOHNSTON
FOR
CHANDLER L. van ORMAN
(Separate Submission)

1. Q. According to Chairman Dingell's testimony, in the past you have participated in political activities while remaining as a Federal employee at the Agency for International Development.

(a) Please explain in detail what activities you participated in, including dates you participated in such activities and where you participated in such activities.

(b) Did you seek clearance or other special permission from your superiors at A.I.D., or from A.I.D. ethics officers, or from the Office of Personnel Management, to enable you to participate in such activities? Please be specific. Please provide the Committee with a copy of any determination made during your tenure at A.I.D. that such activities were consistent with applicable provisions of law and personnel regulations. If no such determination was made at the time, please seek a determination from O.P.M. that such activities were consistent with applicable provisions of law and personnel regulations.

(c) What type of arrangements did you make to enable you to travel? Were you on leave? Who paid your expenses?

A. I have been employed by the Federal Government in a full time capacity during the following periods of time:

Anti-trust and Monopoly Subcommittee U.S. Senate	6/62 to 9/62 6/63 to 9/63
Federal Trade Commission	8/66 to 6/67
Agency for International Development	3/82 to 3/83
1983 Summit of Industralized Nations	3/83 to 7/83
Commission on Executive Legislative and Judicial Salaries	10/86 to 2/87
Economic Regulatory Administration Department of Energy	7/87 to Present

Never once during any of these periods did I engage in "political activities" of any kind proscribed by the Hatch Act. Since the election of President Reagan in 1980, I have been an unpaid volunteer on the rolls of the Presidential Advance Office during those periods of time when I was employed in the private sector. During my employment outside the government, I did participate in various events on behalf of the Advance Office. However, not once during any period of federal service was I asked nor did I undertake any such assignment. There has been absolutely no overlap between my periods of federal service, and the relatively few assignments I have undertaken for the Advance Office.

2. Q. Are you now involved in any political activities on behalf of any Presidential or other political candidate?

(a) If you are involved in such activities, please explain in detail what activities you participated in, including dates you participated in such activities and where you participated in such activities.

(b) If you are involved in such activities, did you seek clearance or other special permission from your superiors at the Department of Energy, from D.O.E. ethics officers, or from the Office of Personnel Management, to enable you to participate in such activities? Please be specific. Please provide the Committee with a copy of any determination made during your tenure at D.O.E. that such activities are consistent with applicable provisions of law and personnel regulations. If no such determination has been made, please seek a determination from O.P.M. that such activities are consistent with applicable provisions of law and personnel regulations.

(c) If you are involved in such activities, what type of arrangement have you made to enable you to travel? Have you been, and do you intend to be, on leave? Who has paid your expenses, and who would pay your expenses in the future?

A. I am not involved in any political activities of any kind on behalf of any Presidential or other political candidate. My resume indicates that I am on the Advance Staff of the Vice President, but my relationship with the Vice President's Advance Office is identical to my relationship with the Presidential Advance Office. I have been an unpaid volunteer available, during periods of private sector employment, to participate in various events on behalf of the Vice President. I have, however, not participated in any political events of any kind on behalf of the Vice President during any period of Federal employment.

RESPONSES TO QUESTIONS FROM SENATOR J. BENNETT JOHNSTON
FOR
CHANDLER L. van ORMAN

1. Q. As you know, I sent the current ERA Administrator a letter on December 3, 1987, asking questions related to ERA's prosecution of oil overcharge cases using its novel "central figure" theory. Are you familiar with this theory of liability? Would you share your thoughts?

A. I am familiar with the "central figure" theory or "tortious misconduct" doctrine for the imposition of liability on individuals. I have reviewed ERA cases which allege it in particular circumstances. In addition to the Temporary Emergency Court of Appeals, other Federal courts have found individuals liable when presented with appropriate evidence of misconduct. On a case by case basis, if the ERA determines that the legal, factual and equitable bases are present to support this theory, then it would be in the public interest to include it in the enforcement action.

2. Q. When Mr. Staunton's responses are completed, would you review them and submit separately in writing your areas of agreement or disagreement with the current Administrator's responses to these questions?

A. As Mr. Staunton is no longer with the Agency, I will be responsible for replying to the questions raised in your December 3, 1987 letter.

3. Q. When could the Committee reasonably expect to receive ERA's detailed and comprehensive responses to these questions?

A. We expect to have a detailed response to the Committee by January 25, 1988.

4. Q. What is the status of the oil overcharge prosecutions at ERA? How many cases are pending? What is the breakdown between those filed in the Federal district courts and those proceeding administratively before DOE and FERC? How many more cases does ERA plan to file before the program ends?

A. There are currently 199 enforcement related cases being litigated by the Agency, and claims have been filed in 77 bankruptcy actions. Of the 199 cases, 126 are pending before DOE's Office of Hearings and Appeals and the Federal Energy Regulatory Commission. The remaining 73 cases are before various Federal courts. Thirteen of the 73 court cases are appeals of Remedial Orders issued by OHA and FERC; three cases are actions to enforce final Consent Orders or unappealed Remedial Orders; in one case, Scruggs Energy Co., the government initiated a direct enforcement action in Federal court without administrative adjudications before OHA or FERC. The remaining cases pending in court were initiated in the Federal courts by private parties suing the government. A maximum of six additional enforcement actions will be filed in OHA, and none will be filed directly in Federal court.

5. Q. ERA recently withdrew cases pending at FERC and refiled them in Federal district court. Why?

A. In early 1987, ERA withdrew the Scruggs Energy case from OHA before the issues had been joined, and filed a direct enforcement action in Federal court. I understand that ERA had used that approach before, and such action was not proscribed by law. In a number of cases before OHA and FERC the respondents had challenged the validity of the so-called "layering rule" contained in 10 C.F.R. Part 212, Subpart L. The Scruggs case involved similar layering issues and the initiation of the direct court action was intended to obtain a dispositive court decision on these threshhold issues, which only a court could render, in less time than would have been required by litigation in OHA and FERC.

6. Q. (a) Are you familiar with FERC's Opinion 256, commonly called the "as-billed" case, which prohibits U.S. pipelines from automatically passing on Canadian gas rates "as-billed" with very high monthly demand charges and relatively low commodity charges?

(b) ERA in the past has not endorsed the FERC policy. Is ERA willing to accept the FERC "as-billed" decision? Please discuss any disagreements you may have with that decision.

(c) Will ERA now apply the FERC "as-billed" ruling to its decisions to grant import authority under Section 3 of the Natural Gas Act?

A. (a) Yes, I am generally familiar with Opinion 256. In Opinion 256, the FERC concluded that, consistent with ERA approval of a two-part demand/commodity contract, it could not disapprove the contract or find the purchasing practices of the pipeline imprudent, but that it could, however, and did, review the allocation of costs contained

in the rate structure and reallocate them to make them consistent with the rate structure it had approved for the importing U.S. pipeline. This decision established that the FERC would not allow Canadian gas costs to be passed through automatically (that is "as billed") to downstream U.S. customers when FERC finds that to do so would be inconsistent with FERC treatment of domestic pipelines and the costs of domestically produced gas.

(b) The ERA accepts and endorses the principles underlying FERC Opinion 256: competition and equal treatment for Canadian and domestic gas.

(c) While the ERA may have the authority under Section 3 of the Natural Gas Act to condition an authorization in a way that would apply the rate design embodied in FERC Order 256 downstream in cases where the FERC does not have jurisdiction, the ERA would not attempt to override either FERC's or a State regulatory agency's jurisdiction.

Such action would be contrary to this Administration's policies concerning Federal intervention in the marketplace, states rights, and free trade. As the DOE gas import guidelines specify, ERA should avoid intervening in competitive freely negotiated import arrangements. Executive Order 12612, issued by President Reagan on October 26, 1987, directs all Federal agencies to defer to the states in areas where the states traditionally exercise jurisdiction, such as ratemaking for intra-

state pipelines and local distribution companies. The U.S./Canadian Free Trade Agreement specifically prohibits discrimination between Canadian and domestic energy supplies, which would result if ERA attempted to regulate rate design for Canadian gas sold into intrastate commerce where similar regulation would not apply to sales of domestically produced gas into intrastate commerce.

7. Q. Do you think the United States should be concerned about increasing imports of Canadian electricity?

A. No. Imports of Canadian electricity are a reliable and economical source of electrical power and play an important role in the long range supply plans of U.S. electric utilities. Decisions to import from Canada are made by electric utilities after weighing the economic merits of this action against other (domestic) power supply alternatives. In addition, power purchase agreements (whether from domestic or foreign utilities) generally are reviewed for prudency by state regulators.

Imported electricity has been saving consumers money by allowing utilities to displace the use of oil and natural gas. The price of imported electricity generally is set contractually at or below the average cost of domestic generation from fossil fuels. Thus the price of imported electricity has been substantially below that of more costly oil- and gas-fired generation, and consumers have benefited. Furthermore, several recent contracts between U.S. and Canadian utilities have priced the capacity and

energy at some percentage (around 80 percent) of what it would have cost the U.S. utility to build and operate their own powerplant in the U.S. This type of pricing arrangement, arrived at voluntarily by willing sellers and buyers, virtually guarantees that imported electricity would be the lowest cost source of power available.

8. Q. Is there a realistic danger of becoming overdependent on this source of generation?

A. No. During 1986, imports provided only 1.4 percent of the U.S.'s total electric energy requirements. Based on ERA's current projections for imports, this value should remain below 2.0 percent through the end of the century.

There is also a self-regulating mechanism at work. One of the benefits of imports is to provide U.S. utilities with a means of diversifying their power supply sources so that they do not become too dependent on any single source. U.S. utilities would be just as reluctant to rely too heavily on imports as they would be to rely too heavily on imported oil, natural gas, or nuclear power.

Furthermore, there are practical limits to the amount of power that may be imported into a region. One constraint is the ability of the existing domestic transmission system to "absorb" larger amounts of electric power entering a region from a single geographic direction. In some cases, major enhancements to existing U.S. trans-

mission systems would be required in order to reliably handle large increases in electricity imports. These enhancements could not be accomplished without the review and approval by the regulatory agencies within the states impacted by these new projects. Furthermore, the practical level of imports is limited by the surplus of Canadian supply over demand. Although Canada has substantial undeveloped hydroelectric resources, it also has substantial electric demand growth. Hence, even if there were no transmission contraints, it is unlikely that import levels would more than double by the end of the century. If Canadian demand grows somewhat faster than expected, power imports might not expand much at all.

9. Q. What standard does ERA use in deciding whether to grant or deny a permit for the import or export of electricity?

A. ERA does not regulate the import of electricity. ERA regulates the export of electricity and permits the construction of electric transmission lines which cross the U.S. international border. Utilities may import electricity over existing lines without any further Federal regulatory action provided those lines are operating within the previously prescribed conditions.

In reviewing electricity export applications, ERA considers whether the exporting utility will have sufficient generating capacity to sustain the export during the period of the contract and whether the transmission of the energy to the foreign utility will adversely impact on the operational reliability of the U.S. bulk power supply system.

When reviewing applications for permits to construct new international transmission lines, ERA considers the impact that the installation and operation of the proposed project will have on the operational reliability of the U.S. bulk power supply system. Also, if the issuance of a permit is considered to be a "major Federal action significantly affecting the environment", an environmental analysis must be performed pursuant to the provisions of the National Environmental Policy Act of 1969. Finally, before a permit may be issued, concurrences must be obtained from the Secretary of State and the Secretary of Defense.

RESPONSES TO QUESTIONS FROM SENATOR HOWARD M. METZENBAUM
FOR
CHANDLER L. van ORMAN

1. Q. Do you intend to continue the existing enforcement policy of the Energy Regulatory Administration with regard to oil overcharge cases? If not, please explain how you would differ and why?

   A. I do intend to continue to apply the current enforcement policy, which can be succinctly described as enforcement of the law through litigation, or if reasonable and in the public interest, through settlement.

2. Q. Since the Federal government now shares half of the proceeds from oil overcharge cases, and given the deficit situation, is it your intention to seek the largest (cents on the dollar) settlements obtainable? If not, please explain.

   A. I would always seek the highest level of settlement consistent with the perceived litigation risks and equities in the particular case. This would be so whether dealing with a crude oil pricing case in which some of the proceeds would be paid to the Federal government, or with a refined product pricing case in which all of the proceeds would be available for payment to the overcharged customers, pursuant to Section 3005 (b)(1)(D) of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA).

3. Q. The deadline for filing cases against companies for oil overcharges is September 1988. Do you intend to file additional cases now under investigation by that deadline? If not, please explain.

A. It now appears that the Agency will be filing as many as five or six cases before September 30, 1988. We are uncertain about the sixth case because the records necessary for audit are the basis for an ongoing criminal case and are unavailable to the Agency. However, PODRA, would allow an enforcement action to be initiated in such a case within twelve months after the completion of the criminal proceeding. Accordingly, no case will be barred by the statute of limitations contained in PODRA.

4. Q. Do you have a deadline in mind for when you want to complete the overcharge enforcement functions of ERA? Do your views differ from those of the current head of ERA as to the difference between closing cases in a timely manner, or closing them after you have sought the maximum in settlement dollars?

A. At this time it is not possible to determine when the ERA overcharge function will be completed. My objective is to see this program completed as quickly and responsibly as possible. The Agency is currently litigating 199 enforcement-related cases. Experience would indicate that many of those cases will be settled before the litigation is completed, but others will not. With 86 of the 199 cases still pending before DOE's Office of Hearings and Appeals and the potential for appeals to the Federal Energy Regulatory Commission and Federal courts, it appears likely that some cases may not be resolved for several years. I do not believe that my views in this regard are fundamentally different from those of the former Administrator.

5. Q. The Temporary Emergency Court of Appeals has ruled that individuals in certain circumstances can be held personally liable for oil overcharges. Do you intend to maintain this principle of personal liability in your enforcement strategy? Do you agree with this principle? Please explain.

A. The doctrine of "tortious misconduct" is a judicially approved principle of law which supports the imposition of liability upon individuals in appropriate circumstances. ERA has alleged individual liability in 33 pending cases which encompass a variety of factual patterns and situations. As in the past, the ERA will review the circumstances of each case to determine whether there are sufficient bases for the employment of this or other doctrines of liability. Where the available evidence in a case suggests that the appropriate circumstances are present, the principle of "tortious misconduct" will be used.

6. Q. With the enormous sums at stake in the remaining oil overcharge cases and investigations, it is critical that the ERA retain its exceptional staff of lawyers, accountants, economists and other experts. Please explain your view of the ERA's staff level. Specifically, is it your intention to allow staff reduction through RIF or attrition? If so, please explain.

A. The FY-88 budget calls for a compliance FTE allowance of 150 and 140 for FY-89. This number includes approximately 65 attorneys and 40 auditors for FY-88 and 65 attorneys and 35 auditors for FY-89. The current compliance staff is 155. I believe that these FTE levels will provide sufficient staff to meet the demands of the ERA case load.

There are currently no plans to conduct a RIF at ERA. I would much prefer reducing staff levels, when required, through attrition or reassignment. I am acutely aware, however, that if confirmed, I will be responsible for managing the ERA as effectively as possible. Accordingly, I will be making every effort to reduce the remaining number of cases quickly and responsibly. At some point, it will not be efficient to keep staff in one or both of the field offices and all of the staff in the headquarters office. When this time comes, and I can not predict when it will be, the staff will have to be reduced. Reduction-in-force will be one of the options we will have to consider when these decisions need to be made.

RESPONSES TO QUESTIONS FROM SENATOR LOWELL WEICKER, JR.
FOR
CHANDLER L. van ORMAN

1. Q. As Administrator of ERA, you will be responsible for authorizing the import of natural gas into the U.S. after determining a national and regional need for the gas, am I correct? Section 3 of the Natural Gas Act requires ERA to determine need for the imported gas while Section 7 of the same Act requires FERC to determine the need for proposed gas pipelines, is that right?

A. Yes. Under Section 3 of the Natural Gas Act, ERA must authorize an import unless it finds that it "will not be consistent with the public interest." In making his decision, the ERA Administrator considers whether the proposed import is competitive in the markets served, and, particularly when the authorization sought involves a long-term import proposal, considers need for the supply. Under Section 7 of the Natural Gas Act, FERC must determine whether proposed new or extended facilities used in transportation or sale of natural gas in interstate commerce are required "by the present or future public convenience and necessity." The FERC under this standard determines what would be the most appropriate transportation system to serve the public need for gas service. Often this determination involves comparing alternative pipeline proposals, including utilization or expansion of existing pipeline systems. Thus, ERA determines whether a gas supply is needed in the marketplace, regardless of how it is transported, while FERC examines what transportation facilities are needed to meet a market's supply needs.

2. Q. Mr. van Orman, is it true that DOE policy requires that ERA and FERC be consistent in making need determinations for proposed gas imports and pipelines?

A. The delegation order from the Secretary of Energy to the FERC regarding natural gas imports and exports requires that the FERC not take any actions in carrying out its responsibilities that would be inconsistent with the findings and determinations of the ERA Administrator. Thus, if the ERA found that an import arrangement is needed, FERC could not find that the supply is not needed, although it could find that a proposed new pipeline system to transport that supply is not needed.

3. Q. FERC has created an "open season" to consider natural gas supply proposals to the Northeast. This "open season" will close on January 15, 1988, following which FERC will subject all submitted proposals to a competitive hearing to determine the best way to supply gas to the region. Would it not make sense for ERA to withhold action on pending import applications until such time as FERC makes a decision as to which, if any, should be certificated? Would ERA actions in approving an import certificate for gas that is involved in the FERC competitive hearing prejudge the outcome of the hearing since FERC is required to render consistent findings of need with your Administration?

A. My understanding of FERC's "open season" is that the Commission will determine which procedures are appropriate after the applications for transportation facilities have been received and reviewed, and that comparative hearings will only be held if a determination is made that two or more of the proposals are mutually exclusive. It is possible that the FERC could authorize both new pipelines and expansions of existing ones in order to meet the demand for natural gas in the Northeast.

In making its determination as to the competitiveness of and need for an import arrangement, it is not necessary for the ERA to wait until the FERC makes a decision regarding the expansion of the supply grid. In fact, in considering the merits of proposed facilities for transporting imported gas, it should be beneficial to the FERC to know whether there is a competitive source of supply available. Clearly any ERA determination that a proposed import would not be consistent with the public interest would signal to the FERC that it need not consider that particular source of supply in assessing the need for transportation facilities.

The ERA does not intend, nor does FERC take the position, that an ERA authorization prejudges the transportation decisions to be made by the FERC pursuant to Section 7 of the Natural Gas Act.

RESPONSES TO QUESTIONS FROM SENATOR NICKLES
FOR
CHANDLER L. van ORMAN

1. Q. Section 3 of the Natural Gas Act prescribes a "public interest" standard for evaluating gas imports. Moreover, in Delegation Order 0204-25 (October 17, 1978) the Secretary of Energy listed several factors for evaluating gas imports.

These factors were also used in West Virginia Public Service Commission v. DOE, 681 F.2d 847 (D.C. 1982), which also found relevant whether "the imports would adversely affect the development of proximate domestic supplies." 681 F.2d at 861. In a subsequent delegation order, the Secretary has used a shorter, non-exhaustive list of criteria.

What is your view of the relevant factors which make up the "public interest" test? Does it include the impact on the development of "proximate domestic supplies?"

A. DOE Delegation Order 0204-25, issued in 1978, was superseded on February 22, 1984, by Delegation Order 0204-111. The current delegation order, as amplified by the DOE's natural gas import policy guidelines issued the same day, defines the "public interest" to be enhanced competition in the markets served by natural gas imports, reduced Federal intervention in the marketplace, and equal treatment of Canadian and U.S. gas in the marketplace. It also establishes three major criteria for examining whether a gas import is in the public interest: competitiveness of the import, need for the natural gas, and security of supply. These, in my view, represent the relevant factors which make up the public interest test.

Among other factors, DOE does consider the impact on development of "proximate energy supplies," one of the criteria set forth in the superseded Delegation Order 0204-25.

DOE's greatest concern is to ensure the long-term ability of our nation to exercise a rational energy security strategy. The key to that strategy is the long-term availability of competitive supplies from reliable sources to supplement domestic supplies. Canadian gas represents such a supplemental supply. Decontrol, rather than a limitation on imports, will assure the most efficient development of "proximate domestic supplies."

2. Q. Many Oklahoma independent producers have gas which has been shut-in and cannot be transported to market. In other cases, Oklahoma production which has been sold on the spot market is facing termination of transportation at midnight on December 31, 1987, due to the elaborate crediting requirements of FERC Order No. 500.

(a) Do Order No. 500's crediting provisions apply to natural gas imported from Canada?

(b) If they do not, does this give Canadian producers a marked advantage over U.S. natural gas producers?

(c) If there is an advantage conferred on Canada producers by Order No. 500, what does the ERA intend to do to ensure fair competition, as is the fundamental underpinning of the U.S./Canada Fair Trade Agreement?

A. Order 500 does not discriminate based on the source of the gas; it differentiates between contractual relationships. All producers are required to make offers of crediting to U.S. pipelines for any gas transported for a third party. Some producers will not, however, have any take-or-pay obligation to which the credits can apply. For example, where domestic or Canadian producers have contractual relationships with U.S. interstate pipelines, those producers would be required to credit against any take-or-pay obligations they had with interstate pipelines. Where there is no contractual relationship between domestic or Canadian producers and U.S. interstate pipelines (for example, when the sole relationship is a direct sale contract between a producer and an end user, and the producer does not have any contractual relationship with the transporting interstate pipeline or where take-or-pay obligations have been settled), the producers would still be required to make offers of credit, but there would be no corresponding take-or-pay obligations for which the credits could be used.

Most Canadian suppliers have settled their take-or-pay problems with their U.S. pipeline customers in order to compete in the U.S. marketplace, since they, like domestic producers, face reductions in demand and declining prices due to conservation, fuel switching, and competition from oil and gas. Order 500 confers no advantage on Canadian producers, other than the same advantage experienced by

domestic producers who have settled their take-or-pay problems or who do not have contractual relationships with U.S. interstate pipelines.

The ERA's actions are taken pursuant to DOE's policy guidelines for natural gas imports and, I believe, are in full accord with the U.S./Canadian Free Trade Agreement (FTA). Further, as noted above, Order No. 500 is also consistent with the FTA since it does not discriminate by country of origin.

3. Q. In the face of the recent drilling collapse and surplus, the ERA has authorized the importation of about 14 Tcf of blanket Canadian imports. In your view, what steps can the ERA take to mitigate the "boom-bust" cycle in domestic drilling?

A. Blanket import authorizations correspond to the direct marketing programs available to U.S. producers. ERA's blanket authorization of about 15 Tcf of Canadian imports over the past two years represents permission to participate in the market, not contracts or requirements to sell or take gas. Most of that authorized gas will not be imported (only about 154 Bcf, or less than 2 percent of the amount authorized, has been imported to date) because those importers, like domestic producers, must put together buyers, sellers, and transporters, and reach agreements on price and other contract terms before any gas can be imported.

Most of the blame for the "boom-bust" cycle in domestic drilling, and the corresponding "shortage-surplus" cycle for consumers, can be laid at the feet of governmental regulation, which prevents the market from operating efficiently, and volatile oil markets. This cyclical trend will be ameliorated when a competitive market is in operation, and when gas prices are allowed to rise or fall to the market-clearing price. The ERA, in authorizing the importation of natural gas for sale on a spot-market or short-term basis, in which the gas will only be sold if the price is competitive, is furthering the goal of deregulation and is helping to create a competitive market.

RESPONSES TO QUESTIONS FROM SENATOR DANIEL J. EVANS
FOR
CHANDLER L. van ORMAN

1. Q. How do you view the importation of electricity resources from Canada? What impact do you see the Canadian-American Free Trade Agreement having on energy trade with Canada generally and the process of granting Presidential Permits specifically?

A. Imported Canadian electricity is one of a number of viable power supply options which should be considered by U.S. electric utilities when formulating long-range power supply plans. Imported electricity has contributed to reducing the U.S.'s dependence on foreign oil and has saved consumers money in the regions which are able to access this economical source of electricity. The Administration has a clear commitment to free international trade conducted on a fair basis. Since contracts for imported electricity are freely negotiated by the commercial parties, continued imports of Canadian electricity is consistent with the Administration's policy.

The Canadian-American Free Trade Agreement should have little or no near-term impact on electricity trade. However it does assure that, over the long-term, we will have continued access to Canadian energy at freely negotiated prices without artificially set regulatory price floors.

The Free Trade Agreement should have no practical impact whatsoever on the process of granting Presidential Permits. Permits are issued pursuant to the President's authority to protect the territorial integrity of the U.S. border. I know of no provisions of the Free Trade Agreement which will require a change in our existing procedures. The Presidential Permit authorizes construction of physical facilities. ERA has no authority to regulate the importation of electric energy.

2. Q. What are your views of the Presidential Permit process? Specifically, do you think there is adequate public input periods, or do you think the process is already too time-consuming and cumbersome? What would you do, if anything, to improve the process?

A. I feel that the Presidential Permit process provides adequate opportunity for public input. Between the initial comment period and the environmental, electric and technical reliability review processes, there are at least four specific opportunities for public input. Although the review of an application for a permit takes between 18 and 24 months, reducing the amount of public input in order to reduce this time period would not appear to be in the public interest nor would it reduce the time required to process an application. Most of the recent applications for permits have been for large transmission projects with far-reaching consequences. The electrical system reliability and environmental studies and reports set the pace for processing applications. It would not be possible to make an informed

decision without the active participation of the people and organizations which may be affected by such a project.

I do not feel that the process needs improving at this time.

RESPONSES TO QUESTIONS FROM SENATOR BINGAMAN
FOR
CHANDLER L. van ORMAN

1. Q. Many natural gas producers in New Mexico, as well as the nation as a whole, are small businesses. What is your philosophy regarding the Federal government's policies for assisting small businesses? What steps can the ERA take to remain sensitive to the needs of small businesses?

A. Although ERA has no authority to assist small business operations, I intend to assure that ERA's actions will not discriminate against small business. Small businesses as well as larger businesses can flourish best in a free market environment. In a free market small businesses may have an advantage over larger organizations since the smaller business may be able to more readily respond to changes in the marketplace.

In keeping with my belief that a free market environment is the best one for small business, I will make every effort to ensure that the actions of the ERA do not stand in the way of the market forces in the natural gas industry.

2. Q. Historically, the Baker-Hughes rotary rig drilling count has been around 2,500. The rig count reached an all-time low of 663 in the summer of 1986 and has averaged around 900 throughout 1987. This reduction in drilling activity has resulted in economic dislocations and widespread unemployment. Further, it has hampered the development of long-term natural gas reserves. What steps should ERA take in response to this decline in domestic drilling? In view of this drop in drilling activity, should the ERA reappraise its gas import policies?

A. While the ERA is concerned with the domestic natural gas industry, it cannot directly "take steps" in response to a decline in domestic drilling. Drilling rig counts have fallen world-wide as a result of the general decline in oil and gas sales. This decline is the result of many factors, including energy conservation, increased inter-fuel competition, and falling world-wide prices of oil.

It is my belief and the policy of the DOE that the gas industries of both the U.S. and Canada are best served by allowing a free market in natural gas in the U.S.

3. Q. Virtually none of the gas imported from Canada is sold directly from Canadian producers to distributors or end-users in the United States. Instead, at least one or more intermediaries take title in the process of having the gas cross the border.

(a) In your view, is there workable competition at the wellhead in Canada?

(b) In your view, is there workable competition in the wellhead in the United States?

(c) Do competitive market forces operate regarding the pricing policies of intermediaries (brokers or marketers) located on either the Canadian or U.S. side of the border?

A. (a) Yes. Most imported Canadian natural gas is either sold on the spot market or under pricing formulae which ensure that the gas will be competitive in the markets served for the duration of the arrangements. Thus, all Canadian gas exported to the U.S. is sold at competitive prices. Canadian producers are paid through a net-back arrangement, in which the costs of bringing the gas to the market are subtracted from the price received, with the producers receiving the remainder. This means the producers directly experience the effects of competition.

(b) Yes. Studies by DOE and others have consistertly shown there is a workable wellhead market and there is strong competition at the wellhead. The development of an active and growing spot market in the U.S., the competition to supply gas for the enhanced oil recovery market in California, and the current "open season" proceedings before the FERC to increase the natural gas transportation system in the Northeast, all point to growing competition at all levels of the natural gas market, including the wellhead. Moreover, they indicate that the Administration's energy policy instituted by the DOE, and followed by the ERA and the FERC, of creating a less regulated, more market-responsive gas industry is succeeding.

(c) Yes, in fact I believe that the incipient growth of a competitive natural gas market is the principal reason that marketers have emerged on the scene. The natural gas market is beginning to mirror the oil market in this regard. Previously, producers sold their gas to pipelines at regulated prices, pipelines sold the gas to distribution companies at regulated rates, and the distribution companies sold the gas to their customers, passing on the costs while adding their own expenses. With the entire industry regulated, marketing skills were rarely necessary. Today, the possibilities for selling, transporting and buying gas are greater as participants in the gas market can pick and choose with whom they deal. To do so successfully requires competitive marketing ability; thus the rise of brokers and marketers.

4. Q. In prior ERA orders, the ERA has suggested that if domestic producers wish to compete for natural gas markets all that is necessary is for them to cut their prices. Many New Mexico producers operate on Federal lands under leases administered by the Minerals Management Service (MMS). Recently, under NTL-5, the MMS has taken the view that royalties must be based on the applicable maximum lawful price for each category of natural gas.

(a) Is there a conflict between the ERA's announced goal of encouraging price reductions under existing domestic producer contracts and the MMS' goal of maximizing royalty revenue for the Federal government?

(b) Many New Mexico producers have had problems in obtaining transportation for gas which is not presently under contract to domestic markets. They seek to market this gas in competition with Canadian imports. So long as transportation is not available to these producers, is there workable competition in the markets to which Canadian gas is being imported?

A. (a) No. NTL-5 was modified by the MMS on August 1, 1986, to allow for reasonable royalty valuations based on the actual prices received, rather than on the maximum NGPA price, for gas from wells which started producing after June 1, 1977. On January 6, 1988, the President signed the NTL-5 Gas Royalty Act of 1987, which will permit the MMS to retroactively apply its modified NTL-5 royalty valuations to gas sold between January 1, 1982, through July 31, 1986.

(b) Open-access transportation is a critical prerequisite to implementing the competitive natural gas market our current policy is designed to achieve. I believe that the gas industry, with the encouragement and assistance of the DOE, FERC, and the government as a whole, is moving in that direction. However, until such time as system-wide open-access transportation becomes available, many Canadian and U.S. producers encounter similar difficulties in attempting to get their gas marketed. Similarly, many end-users are differentially affected by uneven open access implementation. The FERC's Order 500 and FERC's implementation of the policies contained therein apply equally to U.S. and Canadian gas supplies, and do not discriminate by source of supply.

5. Q. Different individuals bring forward different philosophies of regulation. As Administrator of the ERA, you will be the individual to sign all official opinions and orders of that agency. Although you will not personally write every word of every ERA decision, the responsibility for those decisions, as well as the overall tone of the agency, is yours. What regulatory tone do you hope to achieve and convey during your tenure as Administrator of the ERA?

A. I seek to establish the ERA's position as supportive of fair and equal treatment in the U.S. natural gas marketplace for all competitors. I do not propose to show favoritism for nor penalize gas based on its source of origin. My charge under Section 3 of the NGA is to determine consistency with the public interest. The public interest involves the concerns and economic health of consumers, producers, and all other sectors of the American economy.

6. Q. Spot market sales typically involve short-term transactions sold under one-part rates. In a spot market, sellers compete based on price.

(a) In your view, can a spot market function when the sellers charge a two-part rate?

(b) So long as domestic producers are either required to sell gas under a one-part rate or purchasing pipelines are prohibited from reflecting two-part rates on an "as-billed" basis, can there be fair competition if similar constraints are not imposed on import volumes?

A. The spot market functions because buyers and sellers, in a competitive environment without government interference, freely reach agreements on price that reflect their respective economic self-interest. It is up to the buyers and sellers in spot market transactions to determine how the commodity should be priced. If both market participants agree to a price, whether it is one-part or multiple-part, the spot market works.

Domestic and Canadian gas supplies compete in the marketplace the same way. Spot gas, whether domestic or imported, competes with other spot gas and with system supply gas. In the spot market, gas and transportation costs are separate, and gas competes directly on the basis of price. Any distinction between one and two-part rates for gas costs relates to the services rendered by pipelines, not to the source of the gas supply.

RESPONSES TO QUESTIONS FROM SENATOR PETE V. DOMENICI
FOR
CHANDLER L. van ORMAN

1. Q. Do you believe the principles embodied in the FERC Opinion 256 are sound?

A. Yes. The FERC's decision on Order 256 reflected its commitment to the goal of greater competition in the marketplace, and its decision that shifting interstate pipelines to a modified fixed-variable rate structure assists in achievement of that goal. FERC's Order 256 decision was consistent with ERA's order that Canadian gas should be treated no differently than domestically produced gas, and that costs of Canadian gas, like domestic gas, should be allowed to be passed through in rates using a two-part demand-commodity rate structure. The principles of enhancement of competition and equal treatment are sound and I support them.

2. Q. Do you believe that an examination of the public interest in granting an authorization for imported natural gas includes examining the rate structure of that imported gas?

A. The rate structure of contracts contained in applications submitted to ERA are of interest, since they can affect how competitive an import is in the markets served, but they are not routinely the primary focus of our examination. Under current Administration and DOE policy, ERA's examination of the public interest in granting an import authorization involves determining whether the arrangement

is competitive in the markets served, whether there is need for the gas, and whether the gas represents a secure source of supply. ERA examines the import arrangement as a whole, including price, take-or-pay provisions, renegotiation and dispute settlement provisions, as well as rate structure and other factors affecting competitiveness. However, the ERA does not conduct a detailed technical analysis of discrete cost and rate elements, as for example, the FERC does in administering its interstate pipeline ratemaking responsibilities.

3. Q. Do you believe the principles embodied in FERC Order 256 should be applied to the examination of rate structures of natural gas under the jurisdiction of the ERA?

A. The ERA clearly supports the principles of fair and equitable treatment and competition. However, consistent with Administration and DOE policy, ERA does not routinely conduct a detailed examination of rates. The establishment and review of the details of rate design are the responsibility of FERC and the appropriate State regulatory agencies. The ERA would not attempt to override the ratemaking decisions of FERC or State agencies.

Although the ERA does have authority to condition imports, any attempt to impose rate treatment on imported gas in a different manner than on domestic gas would be contrary to the U.S./Canadian Free Trade Agreement and Administration policy.

4. Q. The ERA has the authority to place conditions on import authorizations which have previously been approved. If you were to find that rate structure for past authorizations were "unfair" in the sense that FERC Order 256 has sought to make these structures more "fair," would you seek to correct past authorizations with new conditions?

A. ERA does have the authority to condition, modify or revoke existing import authorizations. In fact, after DOE's new import guidelines were promulgated in 1984, ERA encouraged importers to renegotiate their import arrangements in light of the new guidelines and promised that improvements resulting from such renegotiations would be presumed to be consistent with the public interest. If circumstances arise that make existing authorizations conflict with the public interest, based on convincing evidence, ERA would give serious consideration to modifying those authorizations appropriately. ERA recognizes, however, the importance of regulatory stability for the conduct of successful commercial transactions. As a result, any actions to modify or condition or revoke existing authorizations would have to be taken with great care, and only in cases where circumstances are sufficiently compelling to warrant Federal intervention.

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